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# Congressional Record

PROCEEDINGS AND DEBATES OF THE 103<sup>d</sup> CONGRESS, SECOND SESSION

## SENATE—Wednesday, September 28, 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 BEN NIGHTHORSE CAMPBELL, a Senator from the State of Colorado.

The PRESIDING OFFICER. The prayer today will be offered by our guest chaplain, Bishop Cousin, of Philadelphia, PA.

### PRAYER

The guest chaplain, the Reverend Philip R. Cousin, presiding bishop, First Episcopal District AME Church, Philadelphia, PA, offered the following prayer:

Let us pray:

Almighty God, Thou who has dominion over Earth, sea, and sky, look with favor upon our Nation and the persons responsible for our Government. We pray for the President of these United States, those in his Cabinet, and all others in positions of authority and trust. We especially ask that guidance and wisdom be given to those public servants who work in these prestigious legislative halls. Take from them all thoughts of personal or political aggrandizement. Enable them to be keenly sensitive to the public trust that is within their keeping.

We ask that You will empower our legislators with love and justice for all the inhabitants of our great Republic. Help us as a nation to be good enough and strong enough for the challenges of our times. Confound and thwart the efforts of those who would sacrifice public good for personal gain. Give to our citizens the courage to continue the pursuit of a world fashioned and structured by Your peace and love. We pray that we will always do justly, love mercy, and walk humbly with You as we strive to usher in Your kingdom. Amen.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, September 28, 1994.

To the Senate:

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

ROBERT C. BYRD,  
President pro tempore.

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

### RESERVATION OF LEADER TIME

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

### DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1995—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. The Senate will now proceed to consideration of the conference report accompanying H.R. 4602, 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. 4602) making appropriations for the Department of the Interior 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 ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 22, 1994.)

The ACTING PRESIDENT pro tempore. Who seeks recognition?

Mr. BYRD addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from West Virginia [Mr. BYRD].

Mr. BYRD. Mr. President, the Senate is now considering the conference report on H.R. 4602, the fiscal year 1995 Department of the Interior and related agencies appropriation bill. This conference report and accompanying statement of the managers appeared in the CONGRESSIONAL RECORD on September 22, 1994, on pages 25271 through 25287.

The agreements before the Senate today total \$13.573 billion in budget authority, and \$13.965 billion in outlays, as scored by the Congressional Budget Office. These amounts include \$450 million in emergency appropriations above the normal appropriations for firefighting due to the devastating fire season occurring this year. The recommendations of this conference agreement represent a total decrease below the amounts requested in the budget of \$196.9 million in budget authority and \$157.9 million in outlays. And in the end, when all of the required scorekeeping adjustments are made, this bill is \$210.6 million below the level of funding provided for these programs in fiscal year 1994.

I hope that Senators will take note. Let me repeat. The recommendations of this conference agreement represent a total decrease below the amounts requested in the budget of \$196.9 million in budget authority and \$157.9 million in outlays. And in the end, when all of the required scorekeeping adjustments are made, this bill is \$210.6 million below—let me repeat, below—the level of funding provided for these programs in fiscal year 1994.

In order to comply with the 602(b) allocation, an across-the-board reduction of 0.191 percent has been taken. This reduction will be applied to all programs, projects, and activities, except for mandated settlement payments and certain smaller accounts in the bill.

Mr. President, reaching agreement between the House and Senate is never easy on appropriations bills, and this bill is no exception. Each Senator would probably recommend a different compromise than that before the Senate today. I would remind all Senators,

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

however, that this package attempts to address the many different priorities of all Senators, and House Members. No one is 100 percent satisfied, nor does any Member get everything exactly the way he or she might prefer.

The conference had to resolve nearly 1,000 items of discrete difference between the House and the Senate. The bill had a total of 119 Senate amendments. The formal conference met on 2 different days, which was preceded by many hours of preliminary negotiations. This bill has been the subject of a great deal of scrutiny. Most Members have a direct interest in projects in the bill that affect their States, as well as the numerous policy issues.

Mr. President, I thank Senator NICKLES for his assistance on the Interior bill throughout our consideration of these matters this year. The Senate bill and the conference agreements were fashioned in a bipartisan manner. Obviously, not every request can be fulfilled. But we have done our best to maintain program continuity while also addressing items of interest to Members.

Mr. President, I would like to highlight some of the items in the conference agreement.

The bill contains a 1-year moratorium on the issuance of mining patents on the public lands. The provision is repealed if mining law reform legislation now in a House-Senate conference is enacted prior to sine die adjournment of the 103d Congress. The amendment provides that the Secretary of the Interior shall continue to process patent applications that were filed prior to the date of enactment of this Act, if the applicant had complied fully with all of the requirements under the general mining laws for such patent.

The subcommittee has attempted to protect the operational base of the agencies funded in the bill, while at the same time these agencies are having to take their share of administrative and personnel reductions.

Total funding in the bill for Federal land acquisition and State outdoor recreation grants is \$235.6 million. This amount is \$18.7 million below the fiscal year 1994 level and \$18.7 million above the President's request for fiscal year 1995.

Total funding for construction in the land management agencies amounts to nearly \$454.1 million. This total is about \$84.4 million, or 16 percent, below the fiscal year 1994 appropriation for these same construction accounts.

Funding for energy conservation programs grows by \$102.8 million, or 15 percent, over the fiscal year 1994 enacted level. Funding for the energy weatherization grants program is recommended at \$226.8 million, and funding is included to allow for the transition to a new formula for distribution of such funds.

Mr. President, before I yield the floor, in addition to my thanks to Mr.

NICKLES, the very able ranking member on the minority side for the subcommittee, I wish to thank all the members of the subcommittee on both sides of the aisle. I also wish to pay my sincere respects to the chairman of the House conferees, Mr. YATES. Mr. YATES is a very, very able protagonist. He knows this bill from beginning to end, upside down and crossways. He carries with him to conference always the courage of his convictions. I have enjoyed working with Mr. YATES over these many, many years, and I look forward to working with him in the future.

Also, I thank and express my admiration for RALPH REGULA, the ranking minority member on the House side. Mr. REGULA is always considerate, courteous, and ably presents the views of his constituents. I always count it a joy to sit across the conference table from RALPH REGULA. And I compliment the other members of the House conference as well.

I close by thanking the members of our staffs. Sue Masica is preeminently capable and did an excellent, excellent job on this bill. She knows it from beginning to end. I get many compliments on her from other Members of the Senate on both sides of the aisle.

I also compliment Cherie Cooper, who is likewise an extremely able, courteous, and considerate member of the staff. She is top staff assistant to Mr. NICKLES. Others on the Interior Subcommittee majority staff are Rusty Mathews, Kathleen Wheeler, Ellen Donaldson, Dan Salisbury, on assignment from the National Park Service. On the minority side, Ginny James. Others I wish to thank are Jim English, the director of the Appropriations Committee staff in the Senate, Marry Dewald, Barbara Videnieks, Marsha Berry, and Anne Miano. And I thank Keith Kennedy, who is the minority staff director. He is a fine individual, who is always most considerate and is very able. It is a pleasure to work with minority staff members such as these whom I have named.

Mr. President, I shall yield the floor. Mr. NICKLES addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma [Mr. NICKLES] is recognized.

Mr. NICKLES. Mr. President, I wish to thank Senator BYRD for his comments and most of all for his leadership in managing the Interior appropriations bill, and particularly through conference. As usual, he has handled himself in this subcommittee very professionally and I think he has done an outstanding job.

I might mention, this has not been an easy job, because we have less money to spend than we did last year, as Senator BYRD mentioned, about \$200 million less than we had last year in budget authority. That is about a 1.5-percent reduction for 1995 as compared to 1994. So that makes it difficult.

As my colleagues know, we are dealing with agencies that affect a lot of States, a lot of constituencies and, therefore, there are a lot of requests, with individual Members trying to assist their constituents.

So we have worked together. And I appreciate the fact that Senator BYRD is willing to work with all members of the committee, Democrat and Republican.

I also wish to thank all the other members of the committee. This subcommittee probably has a more active membership within the subcommittee than most others because, again, it affects individual States significantly.

Mr. President, Senator BYRD outlined the overall impact of this bill, but let me just touch on a few things so my colleagues will have a little bit better flavor of some of the individual items.

Senator BYRD mentioned that this year we actually have \$213 million less budget authority than we did in fiscal year 1994. I will touch on a few things.

The Bureau of Land Management is plus \$34 million; the U.S. Fish and Wildlife Service is down \$5.7 million. The Park Service—and I regret we were not able to do more in this regard—the Park Service total is about \$1.7 million less than 1994; the USGS, the U.S. Geological Survey, \$12 million less than last year; the Bureau of Mines, \$16.7 million less than last year in budget authority.

Mr. President, the Bureau of Indian Affairs, while we have the operation of Indian programs going up by about \$36 million, construction for a variety of programs is down by \$36 million. And the total net for BIA is down \$27.3 million, compared to last year in budget authority.

The total for the Department of Interior is down by \$51 million, compared to last year, that is to \$6.5 billion, a reduction overall.

Senator BYRD mentioned that in the Department of Agriculture we do funding for the Forest Service. We have an increase basically under the nomenclature of emergency forest firefighting supplemental because of all the forest fires we have had out in the West. That is an emergency declared off budget, you might say, of \$450 million. The total increase of Department of Agriculture including that \$450 million is \$439 million. So there is actually a reduction in the Forest Service of about \$11 million, compared to last year if you did not have the emergency supplemental.

The Department of Energy has a total reduction of \$148 million. And that is also including the fact, as Senator BYRD mentioned, energy conservation will go up by \$102 million. So other programs are reduced by about \$250 million in the Department of Energy.

The total in Indian health services, I might mention to the Presiding Officer, goes up by about \$24 million, for a

total of little less than \$2 billion for Indian health services.

I might mention, too, Smithsonian goes up by \$29.6 million, and the National Endowment for the Arts received a 2 percent reduction, for a reduction of about \$2.5 million.

Mr. President, that is just a thumbnail sketch. If you added all those changes together and many others in smaller detail, you see that we have a total budget authority for the fiscal year 1995 of \$13.5 billion. That is \$213 million less than we had in 1994. That made our task very difficult.

So, again, I wish to thank and compliment the chairman of the subcommittee and the chairman of the full committee, Senator BYRD, for his cooperation.

I would also like to echo his comments concerning our staff. I think Cherie Cooper, working on our side, has done an outstanding job; as well as Sue Masica on the majority side. They are both a pleasure to work with. They have handled this bill in a very competent and a very professional manner.

I think we have a product that we can be proud of.

I yield the floor.

#### AMERICAN INDIANS IN THE FIELD OF PSYCHOLOGY

Mr. BURNS. Will the chairman of the Interior Appropriations Subcommittee yield for a question?

Mr. BYRD. I will be pleased to yield for a question from the Senator from Montana.

Mr. BURNS. On July 25, when this appropriations bill was on the Senate floor, Senator BYRD, the chairman of the subcommittee, offered an amendment in my behalf which made \$250,000 available for the recruitment and training of American Indians in the field of psychology. In conference with the House, the bill language was dropped and report language was to be written about this program. Does the chairman recall the agreement we made on this item in conference?

Mr. BYRD. Yes.

Mr. BURNS. I was pleased but also somewhat concerned that the statement of the managers language on this item—page 52—indicated that the initiative should be considered for funding in fiscal year 1996. I appreciate this language and I believe that the initiative should be considered for funding in fiscal year 1996. My concern, however, is about what happens to this program in fiscal year 1995.

Does the chairman agree that this initiative, the initiative to recruit and train American Indians in the field of psychology, should be considered for funding in fiscal year 1995?

Mr. BYRD. The committee would have no objection if IHS were to identify funds and propose a reprogramming to initiative this specific program in fiscal year 1995. The statement of the managers notes that in fiscal

year 1995 the IHS scholarship program will support 18 continuing students and 6 new scholarship awards in the area of clinical psychology. These programs have compatible objectives as the Indians-into-psychology program.

Mr. NICKLES. I agree with the chairman of the committee. The agreement on this item focused on fiscal year 1995.

Mr. BURNS. I thank the Senators.

Mrs. MURRAY. Mr. President, I rise in strong support of the conference report on H.R. 4602. I would also like to commend the conferees of both Houses, and especially the chairman and ranking members of the House and Senate Interior subcommittees, Senator BYRD, Senator NICKLES, Representative YATES, and Representative REGULA. Finalizing this conference report took a lot of hard work and difficult decisions.

Mr. President, I would like to reiterate a few themes from my statement during the Senate consideration of this bill last July. This may be the first year in a long time that nearly every appropriations bill has included spending reductions. I serve on both the Budget and Appropriations Committees, so I've had a hands-on opportunity to see this shift take place over the past year and a half.

We have already completed work on several appropriations bills this year. They each carry a similar profile. They try to hold a line on important programs; they reduce FTE's; they phase down programs at, or close to, the end of their usefulness.

The Interior appropriations bill is no different. In this bill, the committee has provided funds for only the most important programs, to achieve only the most critical goals. Critical conservation goals. Critical resource management goals. Critical investment goals. As you can imagine, Mr. President, this has required a lot of tough decisions.

Coming from a Western State, I can appreciate the difficulty in making these choices. I know the maintenance backlog at our national parks. I know the demand for tourist services and public education. I know the pressing need to repair culverts and restore habitat in the national forests.

The agencies under the jurisdiction of the bill are a big part of communities all over Washington. When they lost employees, the communities lose neighbors. When they lack funds to implement laws or regulations, they create controversy. Each time the Senate considers even the obscure little provision in a bill like this, we send a ripple effect through States like mine.

Against this backdrop, H.R. 4602 is an attempt to balance competing demands under difficult circumstances. While there are many worthy projects and important issues which the committee could not address, I feel this bill reflects an effort to be fair. Now that the committee has made these choices,

now that we have identified our priorities, it is terribly important—to my State and many others—that we move quickly to pass this bill.

Briefly, I would like to highlight some of the reasons H.R. 4602 is important to Washington State. First and foremost, it provides critical funding necessary to implement the Clinton forest plan.

Funds are provided for this purpose to the Forest Service, the Fish and Wildlife Service, the Bureau of Land Management, the National Biological Survey, and the Bureau of Indian Affairs. Although the committee was only able to provide about 75 percent of the needs identified by the agencies, H.R. 4602 contains enough for these agencies to legally implement the plan. These funds are sufficient to allow planning, watershed assessment, and Endangered Species Act consultations to proceed. In other words, to get things moving and keep them moving. The Senate conferees receded to the House position on this latter point to ensure maximum resources are devoted to the consultation process.

In addition, funds are provided for watershed restoration. This work provides much-needed jobs throughout the national forests in my State. It is also a solid investment to make sure the forests of the future remain healthy and productive.

Many people have criticized the President's plan. Believe me, it is easy to criticize, because multiple-use forest management is very complicated. But it's also easy to oversimplify the problem when things aren't going well.

Those of us elected in 1992 inherited a train wreck. This administration was asked to correct for a decade of overcutting, followed by 5 years of mismanagement, inaction, litigation, and division. Who in their right mind would believe this problem could be repaired overnight?

To use President Clinton's words, his plan will bring the 25 million acres of national forest into a scientifically credible, legally responsible, and economically sustainable management plan. There is a lot at stake; I think we, in Congress, need to support the effort.

Posed with the choice between jobs and the environment, the President said, "both." The goal is to keep the forest healthy and the harvest rate sustainable. That way, we will know how much timber can be cut while maintaining biological diversity. It will take some time yet to know if the plan will work. If it does, the Pacific Northwest forest plan will be a national model for multispecies ecosystem management. I certainly hope all my colleagues will recognize the significance; this administration is willing to take the heat to demonstrate that the choice between jobs and the environment is false.

There are several other issues addressed in this conference report that are important to Washington State. It contains \$3.5 million for the Park Service to conduct an environmental impact statement on the acquisition and removal of two hydroelectric dams on the Elwha River. In May 1994, the Park Service completed a feasibility study on restoring salmon runs to the Elwha River pursuant to Public Law 102-495, the Elwha River Ecosystem and Fisheries Restoration Act. This study concludes it would be feasible to restore the salmon runs by removing the dams. Such course of action would enable the Federal Government, the Lower Elwha S'Klallam Tribe, and certain private interests to avoid lengthy, contentious, and expensive litigation.

I recognize that proceeding with dam removal in future years would force the Federal Government to incur significant costs. However, I believe the costs of such action would be less than exposing the Government to a costly, court-imposed settlement. I have introduced legislation to authorize involvement on the part of the Bureau of Reclamation in the future. For now, I hope the Federal Government will continue to proceed with implementation of Public Law 102-495.

H.R. 4602 also provides funds for several important local Federal Government obligations. For example, it includes \$2.5 million under State and private forestry special projects to complete the Federal obligation to Skamania County, WA, related to construction of the Skamania Lodge. This is an extremely important item given the historic relationship of Skamania County to the Federal Government under the Columbia Gorge National Scenic Area Act. Non-Federal funds were raised and expended on this project with the understanding the Forest Service would contribute to community efforts. It is doubly important considering the reduction in timber production on the Gifford Pinchot National Forest, which comprises over 85 percent of the county landbase.

In addition, the conference report includes \$3.3 million to continue work at the Johnston Ridge Observatory at Mount St. Helens National Volcanic Monument. This amount should be sufficient for the agency to complete all work on the facility except road view-

points, trailheads, and backcountry facilities. In the first 7 months, it was open, 800,000 people visited the Coldwater Visitor Center. Overall, 3.3 million visitors saw the monument during 1993. During this time, a shuttle bus service has been operated enabling people to reach Johnston Ridge. However, full road and parking facilities have not been completed. Such facilities will be necessary to accommodate anticipated visitation to Johnston Ridge.

Finally, there are funds in the bill to address several land acquisition projects that will ensure important conservation goals are met. In the Alpine Lakes area, \$3.105 million will be used to acquire two sections of land from the Plum Creek Timber Co., L.P., a willing seller. These lands are part of the last undisturbed north-south migration corridor from many species.

The sum of \$1.4 million is provided to acquire lands from a willing seller adjacent to the Nisqually National Wildlife Refuge; the Fish and Wildlife Service has concluded a purchase agreement in this regard.

The sum of \$1.1 million is included to acquire lands in the Skagit Wild and Scenic River management area from a willing seller. This acquisition will help conserve winter forage habitat for the largest population of bald eagles in the lower 48 States.

The sum of \$440,000 is included to acquire lands in the White Salmon Wild and Scenic management area. These funds are to be used to purchase the 37-acre Tillotson property, a critical tract that hosts sensitive late successional species such as the pileated woodpecker, the gray squirrel, and the bald eagle. This parcel is available under a short-term purchase agreement that expires in fiscal year 1995. The funds provided are consistent with the Forest Service-approved appraised value for this property.

Mr. President, funds are also included to acquire lands on Lopez Island, at Fishtrap Lake, the Black River, the Olympic National Forest, and the Columbia Gorge. I am grateful to the chairman for the inclusion of these funds. They are critical to the conservation goals of the people of Washington State.

The Land and Water Conservation Fund [LWCF] has been hit particularly

hard by spending reductions. This is truly unfortunate, as it offers the best opportunity for nuts and bolts conservation activities. For example, the I-90 corridor in the Cascade Mountains is comprised of checkerboard ownership in some of the most biologically diverse old growth forests of the region. LWCF funds could be used to consolidate Federal ownership to ensure wildlife conservation and recreational opportunities are maintained.

As I mentioned, the bill includes funding to acquire land in the Silver Creek drainage. However, funds are scarce, and this project only represents the tip of the iceberg. I encourage the Forest Service to work with the principal landowner in the corridor to determine whether a comprehensive land exchange is possible. This would be the best way to protect the corridor and relieve pressure on scarce LWCF resources.

Mr. President, there are many more important provisions in H.R. 4602. Every State with significant public lands, every State with an interest in energy conservation, every State with a national park needs this conference report to pass. It is a good, tough agreement. It reflects our need for tight purse strings, but it also supports so many worthy programs. I urge all of my colleagues to support the conference report on H.R. 4602.

STATEMENT ON THE FISCAL YEAR 1995 INTERIOR APPROPRIATIONS BILL

Mr. SASSER. Mr. President, the Senate Budget Committee has examined H.R. 4602, the Interior appropriations bill and has found that the bill is under its 602(b) budget authority allocation by \$4 million and under its 602(b) outlay allocation by \$138,000.

I compliment the distinguished manager of the bill, Senator BYRD, and the distinguished ranking member of the Interior Subcommittee, Senator NICKLES, on all their hard work.

Mr. President, I have a table prepared by the Budget Committee which shows the official scoring of the Interior appropriations bill 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:

BILL HISTORY—H.R. 4602, FISCAL YEAR 1995 INTERIOR APPROPRIATIONS

(In thousands of dollars)

Bill summary	President's request		House-passed		Senate-reported		Senate-passed		Conference	
	Budget authority	Outlays	Budget Authority	Outlays	Budget Authority	Outlays	Budget Authority	Outlays	Budget Authority	Outlays
<b>Discretionary totals:</b>										
New spending in bill	13,339,147	9,010,358	13,139,352	8,875,354	13,016,647	8,803,328	13,019,580	8,797,418	13,142,286	8,852,365
Permanent advances	375,000	0	375,000	0	375,000	0	375,000	0	375,000	0
Outlays from prior years	—	5,057,573	—	5,057,573	—	5,057,573	—	5,057,573	—	5,057,573
Supplemental	0	5,924	0	5,924	0	5,924	0	5,924	0	5,924
Subtotal, discretionary	13,714,147	14,073,855	13,514,352	13,938,851	13,391,647	13,866,825	13,394,580	13,860,915	13,517,286	13,915,862
<b>Mandatory totals:</b>										
Mandatory spending in bill	60,575	53,481	60,575	53,481	60,575	53,481	55,675	48,581	55,675	48,581

## BILL HISTORY—H.R. 4602, FISCAL YEAR 1995 INTERIOR APPROPRIATIONS—Continued

(In thousands of dollars)

Bill summary	President's request		House-passed		Senate-reported		Senate-passed		Conference	
	Budget authority	Outlays	Budget Authority	Outlays	Budget Authority	Outlays	Budget Authority	Outlays	Budget Authority	Outlays
Budget resolution adjustment	425	519	425	519	425	519	5,325	5,419	5,325	5,419
Subtotal, mandatory	61,000	54,000	61,000	54,000	61,000	54,000	61,000	54,000	61,000	54,000
Bill totals	13,775,147	14,127,855	13,575,352	13,992,851	13,452,647	13,920,825	13,455,580	13,914,915	13,578,286	13,969,862
602(b) allocation	13,586,000	13,921,000	13,586,000	13,921,000	13,586,000	13,921,000	13,586,000	13,921,000	13,582,000	13,970,000
Difference	189,147	206,855	-10,648	71,851	-133,353	-175	-130,420	-6,085	-3,714	-138
Defense	0	0	0	0	0	0	0	0	0	0
International Affairs	0	0	0	0	0	0	0	0	0	0
Domestic discretionary	13,714,147	14,073,855	13,514,352	13,938,851	13,391,647	13,866,825	13,394,580	13,860,915	13,517,286	13,915,993

## THE IMPORTANCE OF COAL RESEARCH AND DEVELOPMENT

Mr. SPECTER. Mr. President, I commend the chairman, ranking member, and the members of the Interior appropriations conference committee for providing \$155 million for Energy Department research and development funds for coal, an amount considerably higher than the \$128 million sought in the administration's budget request. I have worked with the Interior Appropriations Subcommittee to ensure that H.R. 4602 provides sufficient funding for coal research and development because of its importance to Pennsylvania and the Nation.

The energy and water appropriations bill for fiscal year 1995 contained sizeable increases in Energy Department funding for a diverse group of energy sources, such as solar, geothermal, hydropower, and hydrogen. It is important to study applications of these energy sources, but with coal our Nation's most abundant energy resource, Congress should not underestimate the importance of continuing research on environmentally beneficial uses of coal.

There is no question about the indispensable nature of the coal industry in the United States. Especially when one considers our Nation's dependence on foreign energy sources, including foreign oil cartels, coal remains an absolute necessity.

In considering this conference report, Congress should note that the United States has a 300-year supply of coal. Further, coal is a proven source of energy, as evidenced by the fact that 56 percent of electricity is currently generated from coal.

As any Pennsylvanian knows, coal represents jobs. According to a coal industry study, each mining job is supported by 11 other individuals, meaning that this abundant natural resource helps countless families put food on the table, pay the mortgage, and send their children to school.

Pennsylvania's coal mining jobs have declined from 35,000 in 1979 to only 12,659 in 1992. But coal's future may be brighter as a result of the research and development funding in this legislation. Electric utilities across the Nation are relying on clean coal tech-

nology derived from a research program that Congress created in recent years and funds annually through this appropriations act. Under the Clean Air Act Amendments of 1990 and with adequate funding, even more utilities will be using such beneficial technology.

Much of the valuable research on clean and efficient uses for coal is performed at the Pittsburgh Energy Technology Center. Working with private sector partners, the center has made much progress on projects designed to evaluate new uses for coal and to promote environmentally beneficial methods of burning it. I would note that the center suffered a tragic loss this month when several of its key officials and researchers died in the September 8, 1994, plane crash at Pittsburgh as they returned from a Chicago conference on clean coal technologies. I know that their dedication continues to live on at the center and that we shall continue to see quality research and development projects from this valued Pittsburgh institution.

Mr. President, I would reiterate the importance of funding research on all types of energy sources and urge my colleagues to support the Interior Department appropriations conference report, which continues support for our Nation's most abundant energy resource through coal research and development.

Mr. JEFFORDS. Mr. President, I rise today to commend my colleague from West Virginia for his leadership in guiding this bill both through the Senate and the conference committee. I especially would like to applaud his careful consideration of the options for funding the National Endowment for the Arts and for deciding on a less damaging across-the-board reduction of 2 percent rather than the previous 5 percent targeted reductions.

The final appropriations level will still allow the Endowment to continue, substantially, its beneficial work in supporting arts and culture in every corner of every State of the Nation.

The NEA is a modest agency; one whose successes are pervasive but difficult to measure. Throughout its history, it has provided critical seed money to aspiring young artists, newly

created dance companies, and local arts centers. Indeed, Federal contribution to the arts have reached into the most destitute inner cities, and the most remote rural areas.

In my mind, this is the most important mission of the NEA. It brings the arts to areas of the country that, without NEA support, would do without. Vermonters have always valued the arts, but I highly doubt many of our Nation's renowned artists and arts companies would travel to Vermont if it weren't for the support of the NEA.

Thus, it is a shame that our yearly consideration of funding for the NEA is reduced to assaults upon the agency because of the controversy generated by some questionable performance, past or present. Yet, all the controversy is about a minuscule number of unfortunate incidents—approximately 10 grants out of the over 100,000 issued since the NEA's creation in 1965.

I believe the NEA's work is valuable and worthy of Federal support. If only the arts touched more Americans, maybe our country would be a better place with fewer drugs, less crime, and more self-esteem. As founder and vice-chair of the Congressional Arts Caucus, I have seen first-hand the effects the arts have had on children through our visits with the Dance Theater of Harlem, the New York Public Theater, and our annual art competition. Those children strengthen my belief in the arts, and the work of the NEA.

The ACTING PRESIDENT pro tempore. Is there further debate?

Mr. BYRD. Mr. President, there was no vote on the bill when it passed the Senate. Senators do want to vote on the conference report.

I ask for the yeas and nays on the conference report.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. NICKLES. Will the Senator yield?

Mr. BYRD. Yes.

Mr. NICKLES. I am informed that we have at least one Senator who wishes to come and speak briefly on the bill before we vote.

Mr. BYRD. Very well. I hope he will not be too tardy and we can dispose of this bill quickly.

But, in the face of that fact, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

Mr. DORGAN. Mr. President, I did not intend to come and speak on this conference report but felt, on reflection, that I wanted to do that.

I would agree with the comments that have been made about the value of the work of the chairman of the Appropriations Committee and the ranking member on this subcommittee. I know they have worked hard on these issues, they care a great deal about these issues, and there is not enough money to go around. That is a fact.

We are dealing with discretionary funding, a category in which there have been real cuts—cuts to levels below last year's spending—time after time after time. So I understand the dilemma. We have unlimited needs and limited resources.

I must say, however, I was disappointed when I saw this conference report come back from the conference and I want to explain why.

I think there is a need out there that is unmet in a very significant way. That deals especially with the question of Indian health, and most especially with the question of the Federal Government's trust responsibility to protect native American children. I want to talk about that for just a couple of minutes.

I do not raise this issue to be critical of the chairman. I understand what happened. We went to conference and the House prevailed on a number of issues, and the result was there was less money for some of the things that represented the priorities in the Senate bill.

I had worked with the chairman, the staff, and others to put just a couple of million dollars in this piece of legislation, as it passed the Senate, to deal with Indian child abuse issues in the Aberdeen region of the Bureau of Indian Affairs. I was very hopeful that we would be able to keep that in conference. Regrettably, we did not.

I am not here to blame anybody for that, but I am here to express profound disappointment that this happened. At least one of the reasons it must have happened is that, when the bill came back from conference, it had \$8 million more for the National Endowments for the Arts and the Humanities than we had passed in the Senate version. It has millions of dollars more in a whole range of other areas, for museums and other issues.

But it excludes a number of other things the Senate supported. Especially important to me was a couple of million dollars the Senate put in to address the issue of child abuse and neglect on Indian reservations.

I would like to take just a moment to describe why that was important and why tomorrow, when this conference report has been sent to the President for his signature, those needs still will be important and Indian children still will be at risk.

About 2 or 3 weeks ago, I was on a reservation in North Dakota talking to the young woman in charge of this issue, as director of social services, dealing with child protection issues such as child abuse and neglect, including physical and sexual abuse of Indian children.

Let me tell you what I saw in those offices. And I knew about this situation because this same young woman had testified at a hearing of the Indian Affairs Committee that I chaired about a month before. In fact, during the hearing, she broke down crying, this experienced social worker, because, to paraphrase what she said: You know, just the littlest thing during the day is a struggle. Just getting a ride for somebody who has to go to a clinic, trying to beg a ride because we do not have a car to get some young person to a clinic someplace. Just the smallest thing is a problem for us. We have files sitting on the floor—files covering 2 and 3 years' worth of reports of sexual abuse against children, physical abuse against children, neglect of children—and I don't have any idea whether they are even being investigated because there have been 13 or 14 people in and out of this two-person office for 2 years. There is no system. There is no file system. We know someone reported a child being physically abused, and we do not know whether that child—age 2, age 4, age 6, age 8—is still in that home, being abused, because we do not even know whether the report was investigated. And that is the problem."

Let me tell you how I got involved and interested in this. I met a young girl named Tamara Demaris one day on the Standing Rock Sioux Reservation. She had been living with her grandfather, Reginald Burnthorse.

I read about this tragic young child, age 2, put in a foster home by a social worker. This social worker handled about 150 cases. The standard caseload is about 15 or 20 in most rural States in this country. This social worker had 150 cases to follow. This little girl was taken out of a home that was unsafe and put in a foster home. Except, because the social worker was handling 150 cases, she did not have any capability to investigate the foster home where she was putting this young 2-year-old girl. Was it safe? Was it a good home? Would this child be treated well?

Well, Tamara was put in this new home and it turned out to be a home with alcohol and parties and eventually child abuse. Tamara, age 2, was beaten, her arm was broken, her nose was broken; her hair was pulled out by the roots in a fit of violence by Tamara's foster parents, because the person responsible for this 2-year-old child, the social worker, did not have the time to investigate where she was placing the 2-year-old. We did not have enough money to do that. We did not have enough social workers to be sure that our responsibility to protect the life of a 2-year-old was being met. It just did not fit into the priorities; we did not have enough money.

Well, on the Standing Rock Sioux Indian Reservation, they now have some more resources that I recently helped them get, so there are more people investigating where they place these children.

But I on that reservation and others the needs still are unmet.

Let me tell you just about a young woman that I learned about on the Fort Totten Reservation a couple weeks ago. And this is not altogether unusual.

A 15-year-old girl, who now is missing, stole a car and left. This is a young girl who has been in the social service system on that reservation since she was just a tot able to walk. She is an alcoholic. She had a baby at age 14. Her mother is dead from alcohol. Her father is in prison, an alcoholic who committed crimes in the stupor of alcohol. And all of her brothers and sisters are placed out in other homes. This young girl has been in trouble and addicted to alcohol for years, has a baby, and now is missing—and she is only 15.

Is it unusual? No. I saw file, after file, after file of that kind of a problem.

And the Presiding Officer, (Mr. CAMPBELL) knows well of these problems. The Presiding Officer knows that we have all of these unmet needs and he, more than anybody in this Chamber, has fought to try to meet them.

And by talking about them, I am not suggesting that somehow this problem is unique to native Americans or that the problem of child abuse is unique with respect to other vexing problems. But I must say this: those who live on this Nation's reservations are so shorted, in my judgment, in the provision of basic resources that we are failing to meet the Federal Government's trust responsibilities—including the responsibility to investigate foster homes and do the other things necessary to make sure that these children are safe.

A social worker on the Fort Berthold Reservation told me that in a 2-week period, eight young people attempted suicide. Something is fundamentally wrong. Something is fundamentally wrong when we trade off money to protect America's children, especially

America's children who are most vulnerable, to put another \$8 million into the arts.

I have supported the arts. They may not be able to count on that much longer, however. I have been here a number of years and supported the arts because I think much of a society's legacy is represented by the arts. If you go to Europe, ask yourself what is left of the 14th century in Europe? Some old duffer walking around with a long beard? No, they did not live that long. Their art, their culture, that is what is left. I support the arts.

I have always thought that those who say let us slash this, let us spend nothing on the arts were being shortsighted. But I must say this: when those who support the arts and humanities do it so strongly that they do it at the expense of a few million dollars that is needed to address the issue of sexual abuse or physical abuse against young, defenseless, innocent children for whom we have a trust responsibility, then I say I am not sure I am in their corner anymore. That is not trading with the kind of balance we ought to be trading with to meet real human needs in this country.

I could not let this moment pass without saying that this conference report, in my judgment, makes tradeoffs—tradeoffs apparently the House insisted upon—that do not reflect my priorities with respect to where our limited resources ought to go.

Having said all that, let me hasten to add once again that I am not standing here to suggest, somehow, the chairman of the Senate conferees has let us down or the ranking member has let us down. That is not my message. When you go to conference, you compromise. That is the process. I understand all that.

But I am saying, in my judgment, that the compromise on the issue of funding for the arts, as a tradeoff for other things that I think are critically necessary for some very vulnerable young children in this country, is not a compromise that makes sense to me. I hope we will decide, if not this year then next year or the year after, that it is not a question of how much we have but rather how much we must devote to protect the lives of these kids.

When you look at a 2-year-old or 4-year-old living in conditions that are dangerous to their lives, it is not a question of saying we cannot afford it. That is not an answer that is acceptable. We can afford it. We must afford it. We have an obligation to afford the resources to make sure those children are safe and to make sure we do what is necessary to fulfill our responsibility for the lives of those children.

So, let me again say I hope in the next year or the next 2 years we will decide that some of these priorities insisted upon by the House conferees are not priorities we share and not prior-

ities we will accept. And next year, when we go through this process again, I hope I will be able to stand on this floor and say we made a difference, a real difference, in the lives of children. There are not enough resources, in the broader scheme, for the Indian Health Service or to address the kinds of problems I just described.

I have only given a thumbnail sketch. I could give chapter and verse, case after case after case, and it would break your heart to hear it.

We talk about statistics and we talk about philosophy and we talk about a lot of things on the floor in this Congress, but it all relates to real people suffering real problems. Children are the innocent victims of policies that do not do enough to protect them, when they and everyone else in this country should be able to expect that we will meet our obligations in that regard.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, first, I compliment our friend and colleague from North Dakota for expressing some real concerns about some of his Native American constituents. I happen to share some of those concerns.

The Senator talked about some actual cases where people have been abused sexually and had drug problems. We find that all too prevalent on some of the reservations and some of the Indian lands we have in our States across the country. We tried to address that. In the Senate we did have an earmark, a couple of million dollars, trying to address it.

I might make sure my colleague is aware we did put some language in the conference report that says IHS and the Bureau of Indian Affairs "should prepare a coordinated plan for addressing the unmet need for child sexual abuse treatment and prevention programs for American Indians and Alaska Natives, along with cost estimates, and the report should be delivered to the House and Senate legislative and Appropriations Committees within 90 days of enactment \* \* \*." We lost the Senate's earmark, which was targeted toward Indian child sexual abuse.

I want to tell my friend and colleague from North Dakota I share some of those same concerns. I will tell my friend from North Dakota, too, I have a horror story I could tell. As a matter of fact, I have a lot more than one, and they are sickening. I do not know if by appropriating money it is going to go away. I do not know by calling for a study by IHS and BIA, the problem is going to go away. But I know there are problems.

I found outside an Indian school in my State, Riverside, where a teenager under the age of 16 was abused significantly—under the influence of alcohol and so on. And it bothers me. And I have given those officials maybe kind

of a hard time trying to clean up their act to where those things would not be repeated.

I also tell my friend and colleague, though, I want to correct him if he thinks there is a tradeoff between the arts and Indian Health Services because that is not the case. That was not the case in any of the negotiations. Let me bring my colleague up to date to where we are on Indian Health Service. The administration, originally their budget proposed cutting Indian health services by \$244 million, a reduction from 1994. And I expressed outrage. You can ask other colleagues on our committee, when they testified and brought their budget before the Senate, I said, "How in the world—that is a 12.5-percent reduction when Indian health services have, probably, the most deplorable health care delivery system in this country." When I say "deplorable," I am talking about quality of health care. It is pathetic. It is some of the worst health care in this country. It is a good example, in my opinion, if you want to look at socialized medicine, national health care, whatever you want to call it, that the quality of health care is terrible.

The solution may not be throwing away more money, more money toward the programs. But the administration proposed cutting it by \$244 million. We expressed enough outrage that they came back and they reduced the reduction to only \$124 million, which still, I think, is about a 5-percent decrease. We ended up with an increase of \$23 million, almost \$24 million, which is not much, only a little over 1 percent in almost a \$2 billion program; but the administration was going to cut it \$244 million. That is not just for Indian children. That is for all the Indians in this country.

So we did not do as much as I think we should do. But I assure my colleague it was not because we were trading off money for the National Endowment for the Arts or anything else. I might mention on National Endowment for the Arts, the Senate passed a reduction of 5 percent; the House passed a reduction of 2 percent. That was one of the real sticky points in conference. Ultimately the House prevailed, the 2 percent reduction was agreed upon. Congressman YATES felt very strongly about that, and that was one of the final things in conference, and ultimately it was agreed upon. But it had nothing to do whatsoever with the Indian Health Service.

Mr. DORGAN. Will the Senator yield on that point?

Mr. NICKLES. Just one second. Some of us did fight, so my colleague will know, we did fight energetically to restore the Indian Health Services' funds. We did reduce the cuts that were proposed by the administration and have a modest increase. But if the original proposal would have gone forward with

a \$244 million cut, which is a 12.5-percent reduction, or even the administration's modified budget which they sent up which still called for \$124 million reduction compared to last year—no increase for inflation or anything—I think the Senator's outrage would be even stronger.

Finally, my concluding comment is again I strongly share the outrage and disgust of the Senator from North Dakota at some of the problems we have on our Indian reservations, including substance abuse, alcohol abuse, sexual abuse, and particularly amongst minors. We have to do something about it. I am not sure we are going to solve that problem by appropriating \$2 million or \$10 million, but I tell my colleague and friend I will be happy to do anything with him to help try to alleviate and solve some of those problems because I recognize there are lives that are being destroyed every day. We need to do a better job. Frankly, under Indian Health Services, under BIA, under some of these schools, they have been pathetic failures and we need significant improvements. I am not sure dollars are the improvements, but maybe some other alternatives for Indian youth across the country would be welcome. And I will be happy to work with my colleague, the Presiding Officer, and the chairman of the committee to try to make some of those changes. I appreciate the Senator's bringing this to our attention.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota.

Mr. DORGAN. I will make a couple of comments, and then I know the chairman wants to move this piece of legislation and I know there is another Member who wants to speak.

The Senator is correct, the administration, I think, erred in its original budget request for the Indian Health Service. I think in fact the administration admitted that they erred, and they sent a budget modification back to the Congress. But, notwithstanding their modification and notwithstanding what we currently are funding, I am saying we are still woefully short.

The Senator makes the point, "I am not sure money will solve it." Let me respond to that.

I was on a reservation not too long ago. They are trying to do alcoholism treatment in a building that would be deemed uninhabitable anyplace else in the country. They simply do not have the money. They do not have the resources.

When you have the kind of alcoholism and addiction rates you have in some of these areas, if you cannot provide the resources to hire counselors and others to treat people, you are never going to solve these problems. I agree that we ought not throw money at things. But if we do not have the fundamental resources to deal with addiction, hire social workers to deal

with child abuse, or put children in safe foster homes, then we do not have a chance of thoughtfully discussing what the long-term solution is.

We often pass legislation, as we did in 1990 with the Indian Child Protection and Family Violence Protection Act, that makes a wonderful authorization bill. I was not in the Senate in 1990, I was in the House. But I guess if I went back and read all the debate on the 1990 act, I would find people talked about what a wonderful thing that legislation is. But the problem is, if you do not fund it, if you do not have the resources to implement the Indian Child Protection Act, children do not get protection.

It is not my intention to tell a horror story on the floor of the Senate about a particular tragedy, or half a dozen tragedies. It is only my intention to say there is a recurring, relentless condition out there that threatens the lives of children, and I do not intend to stand here and allow us not to address that, in one way or another. We address almost everything else. But this is more important than most of the other things we are talking about in this legislation, at least in the lives of those children who may not live much longer unless we address these problems.

So I am hoping that, with the cooperation of the chairman and the ranking member and the Presiding Officer and others who care about this, we actually can begin to make some progress in these areas.

Let me make one final comment. The ranking member is absolutely right, that taking the budget request for Indian health and building that to an increase over last year is some feat. I would compliment the chairman of the committee and the ranking member for doing that. That is not easy because, as I said when I started, this is being squeezed like a lemon, this area of discretionary spending. I fully understand the dilemma of trying to meet unlimited wants with limited resources.

But I just say, when we begin listing the priorities, whether it is arts and humanities, or a hundred other things you can name that are important to someone in this room, I hope somewhere near the top will be a priority that says that when the lives of children are threatened and they are vulnerable and cannot help themselves, then we have a responsibility to intervene. Not with words, not with authorizations, but with the kind of resources that will give Native American children an opportunity to overcome the circumstances and conditions in which they now find themselves.

Again, let me thank the chairman for his indulgence in allowing me to take this time. I do hope that when we go through this process next year and the conference report comes back, I am going to be able to stand up and talk

about what the chairman and I and the ranking member and others did that was significantly different from what we have done in the past, that will provide some bright hope in the lives of some young children in this country who desperately need that hope.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. BYRD. Mr. President, let me say I sympathize with the concerns that have been expressed by the able Senator from North Dakota. He has been zealous in his work in this regard. And upon several occasions he called the matter to my attention and reminded me of it. And I can appreciate his sadness with respect to what the conferees did. But he also stated a truism when he pointed out that discretionary funding is being squeezed like a lemon.

When compared to the discretionary spending levels that would have been provided under the 1993 budget reconciliation bill, the amounts available for discretionary spending in fiscal year 1995 were reduced by \$500 million in outlays as a result of the Exon-Grassley amendment to the 1995 budget resolution. And this is just a drop in the bucket as compared to the pain that will come next year and other out-years as a result of that amendment.

In fiscal year 1996, discretionary outlays are reduced \$5.4 billion. So right now, up front next year, Mr. Chairman, when I have to make allocations to the various subcommittees, I will be faced with that sad fact.

This year \$500 million. Next year, 10 times that budget. Over 10 times that budget. Over 10 times as deep a reduction in discretionary funding allocations, \$5.4 billion below the amounts recommended in the 1993 budget reconciliation as a result of the Exon-Grassley amendment.

Over the 5 years, 1995, 1996, 1997, 1998, 1999, the total reduction will be \$13 billion in outlays.

Now, when the budget resolution came to the Senate, it was \$26 billion. The cut in the committee amounted to \$26 billion in discretionary funding. And we went to conference. When the budget conferees met from both Houses that \$26 billion reduction in discretionary outlays was reduced by half. So it actually amounted to, in the final analysis, \$13 billion. Even operating on the basis of a freeze. And that is where we are. A freeze over the next several years. But this is \$13 billion below the freeze.

You know how eager Members are to be able to say to their constituents that they have cast economy votes. They have made cuts. And as I said to the Senate, when we had the resolution before the Senate, the budget resolution, I have said it on previous hearings, once you pass this budget resolution and it comes back from conference and is adopted, you have cut right

then. You have cut the appropriations. You will not have to wait 1 week, 1 month, 6 months. You have cut, when you cast that vote.

Therefore, that's the situation we are confronted with. It is going to be worse. It is going to be worse next year. I know that many Members are going to be disappointed when the appropriations bill comes along. But what goes around, comes around. And when those massive cuts are administered in the Budget Committee, as they were last year, and they are sustained throughout the course of the votes on the budget bills in both Houses and in the conference, then will come the pain.

It reminds me of a quotation from Shakespeare's "Hamlet":

A man may fish with the worm that hath eat of a king, and eat of the fish that hath fed of that worm.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho [Mr. CRAIG].

Mr. CRAIG. Mr. President, for just a few moments I want to reflect on what the chairman of the full committee of the subcommittee has just said, and my colleagues here on the floor that express frustration about this particular Interior appropriations bill.

I think the uniqueness of this dialog this morning is the diversity that has been the appropriations bill, from Indian Health Services to the issue I'm going to talk about, and that is the money to build roads to log public timber.

And in that diversity we have some very real problems. But that is the nature of the Interior appropriations bill that we have to deal with. I know that the chairman of the subcommittee, Senator BYRD, and the ranking member, Senator NICKLES, have done their very best to deal with the limitations that they are put under by discretionary spending in the budget process.

I am one Senator who for a good number of years has expressed my concern that we let entitlement programs go on automatic pilot. And we shift the money from discretionary programs over to the entitlement programs.

We go home to our States and tell certain constituencies that budgets have been cut, and yet they look at the sum of the total Federal budget and they do not understand because it does not appear to have been cut. It has gone up by hundreds of billions of dollars annually. The deficit seems to get larger, and oftentimes does, and the debt certainly does get larger.

And there is a contradiction here that we are sending forth in our communication to our constituents that doesn't make a lot of sense to them. And while we may understand the internal workings of the budget process, I would have to tell you that it does not make a lot of sense to me either that we have good public policy, Indian

Health is one of many of those public policies that make sense, and yet we have constantly cut in the name of a different form of funding that we are politically less than courageous in our willingness to deal with. And that is, of course, entitlement programs that somehow have developed a sense of sacredness around here, that nobody wants to walk forward and deal with.

The point I would like to make that's embodied in H.R. 4602, which is the Interior appropriations bill that we are debating now, is the issue of Forest Service roadless area entry and the funding necessary.

Mr. President, I noted that the conference report on this bill has reduced the level of road funding below that needed to accomplish the full timber sales program that is part of the public policy of this country; that is within the forest plans on a forest-by-forest basis across this country.

Accomplishing the timber objective certainly will be a great deal more difficult, and probably impossible. And while I know there are some interest groups that would cheer that, there are a good many communities in my State and your State in which the economy will shut down and people will be without work because they had built their economies on a forest plan that allowed a certain number of board feet of timber to be harvested annually. And now the Congress, in their policy, by their funding is saying, "No, we're not going to let that happen, because we're going to disallow the necessary amount of money to build the roads to enter the areas in which the timber would be logged."

Accomplishing the timber objective clearly is not going to be met here, and the conference report language will not allow it.

Now I've been troubled that roadless area entry continues to not be addressed. And though we have completed the forest plans, and we are going now in my State, and probably in yours Mr. President, into the second cycle of planning, and we have not even met the goals and the objectives of the first cycle of planning, and we are talking 10-year cycles, and the impacts are very real.

On July 26, when the Senate originally considered the passage of this bill, I addressed this concern along with Senator BYRD and Senator NICKLES in a colloquy stating the intent to give the Forest Service as much flexibility as possible to enter roadless areas, as directed by their forest plans.

In a letter dated June 9, Forest Service Chief Jack Ward Thomas described the adverse impact of a prohibition on roadless area entry. He expressed the concern at that time, as the primary person responsible for the carrying out of our forest plan, the Chief of the Forest Service.

He particularly noted the importance of access to released roadless areas for

the purposes of remedying forest disease, the fuel buildup that has threatened and caused the massive forest fires that we have had throughout the intermountain west this year, and in the whole issue of forest health.

In other words, if man cannot get into the forest to apply reasonable management practices, we run the risk of what has happened in the Pacific Northwest and primarily the intermountain area this year. Massive unchecked forest fires that have burned unbelievable acreages, at tremendously intense heat. Heat that has actually destroyed the land and the ground itself. That ground will not be productive for years to come, largely because of forest practices and man's ability to do, or not do, certain things that this appropriation bill, I hope, would address and yet has failed to address this year.

We have forest fires burning today in Idaho, as we speak, in an unprecedented way. Very seldom in the history of our State have we had fires burning in the last week of September or the first week of October. We have lost hundreds of thousands of acres this year of valuable trees, habitat, watershed, all of it very damaging to the environment. All of it attributable to our inability, or our unwillingness to manage our own public land resource.

The Payette National Forest in my State, are suggesting to us now, that these fires will go unchecked, until we have our first snowstorm this winter. Now that is almost impossible for people to understand here on the floor of the Senate, but that is reality.

Part of the reason is we have not entered those roadless areas, even though our forest plans have suggested we should, and we have not extracted the trees. We have seen a huge buildup of fuel.

What am I talking about? I am suggesting that the normal capacity on an acre-by-acre basis of these forested lands to sustain tree growth was somewhere around 10 or 12 trees per acre. Over the last 50 years, because of our ability to put out fires, we have allowed a tree growth in some instances near 300 or 400 or 500 trees per acre.

Then along comes a decade of drought. The trees are tremendously stressed, subject to disease, and they burn. And they are burning now. And we cannot even put the fires out, and we have spent millions of dollars. We have lost lives. We lost several lives in your State, this year, Mr. President; several of them from my State of Idaho. We have lost more human beings this year fighting forest fires than we have in recent history. Can that be attributable to public policy?

Tragically enough, it may be. History may say that is the cause.

Well, I believe I made my point.

The Chief has indicated that new road construction is critical toward addressing wildfire, disease infestation,

forest management problems, and forest health. I recognized that on June 26, as did the ranking member and the Chairman. And yet this bill does not reflect that interest at all. Only 29 percent of the road appropriations is for new roads, construction, and 71 percent is for reconstruction of existing roads. Only a few miles of new roads are planned in roadless areas in the 1995 appropriation. The forest plan is the guiding document providing direction for new roads on how we manage our roadless areas, and yet we are abrogating our responsibility to the forest planning process, and to the new concepts of ecosystem management, and to the new vision that the Chief of the Forest Service, Jack Ward Thomas, is attempting to articulate to our country. We have not taken heed to his call. We are not addressing the problems of our forests. And they will continue to burn, and we will continue to lose millions of acres of valuable public land and public habitat for wildlife because we lack the vision in a very limited budget to direct the appropriations in the way I think many of us would feel necessary and appropriate.

This is an important budget to my State. While I have expressed concern over this frustration, I will support the appropriations bill that I am addressing because it has such powerful impact upon my State that is owned by the amount of 63 percent of the total land mass by the citizens of our country.

So this budget has very real impact, as the ranking member, Senator NICKLES, and as certainly the chairman, Senator BYRD, know. I would hope in the coming years we can do better. If we do not, our forests will burn and someday we will awaken to ask the question: What happened? Why did it happen? Why did somebody not do something about it?

Mr. NICKLES. Mr. President, I appreciate the comments of the Senator from Idaho dealing with the Forest Service, dealing with fires that we have, his urging our support of the urgent supplemental for \$450 million to replenish funds and also have a fund that can respond quickly to future fires.

I also would echo his concern and his statements about our past practices of allowing some of the old forests to accumulate, which is nothing but fuel for future fires, instead of allowing those forests to be harvested. I think the Senator from Idaho is exactly correct. We have not done as much as we should in forest roads and harvesting old forests and timber in part because of lawsuits and in part because of endangered species. The Senator from Idaho has made an excellent statement, and I very much appreciate his input as well as his support.

Mr. President, I do not know of anybody else who wishes to speak on this

legislation. The yeas and nays have already been asked for, and I hope that we would vote on it in the very near future.

Mr. DOMENICI. Mr. President, I rise in support of the Department of the Interior and related agencies appropriations bill for fiscal year 1995.

The conference report provides \$13.2 billion in new budget authority and \$8.9 billion in new outlays for the Department of the Interior and related agencies for fiscal year 1995.

When outlays from prior year budget authority and other completed actions are taken into account, the final bill totals \$13.6 billion in budget authority and \$14.0 billion in outlays for fiscal year 1995.

The Senate subcommittee is \$3.7 million in budget authority below its 602(b) allocation and essentially at its outlays allocation.

The conference report is \$196.9 million in budget authority below and \$157.9 million in outlays below the President's request.

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.

Mr. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the pending conference report, the Senate then proceed to consideration of the Treasury-Postal Service appropriations bill, H.R. 4539.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered. Is there further debate?

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

The ACTING PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

Mr. BYRD. 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. BYRD. Mr. President, I ask unanimous consent that the vote on the conference report occur at the hour of 11:10 a.m.

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

#### RECESS UNTIL 11:10 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 11:10 a.m.

There being no objection, the Senate, at 11:04 a.m., recessed until 11:10 a.m.; whereupon, at 11:10 a.m., the Senate reassembled when called to order by the Presiding Officer (Mr. MATHEWS).

#### DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1995—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

The PRESIDING OFFICER. The hour of 11:10 having arrived, the question before the Senate is on agreeing to the conference report for the Department of the Interior and related agencies. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Tennessee [Mr. SASSER] is necessarily absent.

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

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

The result was announced—yeas 92, nays 7, as follows:

[Rollcall Vote No. 311 Leg.]

#### YEAS—92

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

#### NAYS—7

Brown	Helms	Smith
Faircloth	Murkowski	
Gregg	Roth	

#### NOT VOTING—1

Sasser

So the conference report was agreed to.

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

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

The motion to lay on the table was agreed to.

#### TREASURY-POSTAL SERVICE APPROPRIATIONS ACT FOR FISCAL YEAR 1995—CONFERENCE REPORT

Mr. DECONCINI. Mr. President, I submit a report of the committee of conference on H.R. 4539 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The bill 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. 4539) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent 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 a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 22, 1994.)

The Senate proceeded to the consideration of the conference report.

The PRESIDING OFFICER. The Senator from Arizona.

#### PRIVILEGE OF THE FLOOR— CONFERENCE REPORT ON H.R. 4539

Mr. DECONCINI. Mr. President, I ask unanimous consent that John Libonati, a fellow in my office be granted floor privileges during consideration of the conference report to H.R. 4539, the Treasury, Postal Service, and general government appropriations bill.

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

Mr. DECONCINI. Mr. President, I am pleased to bring before the Senate the conference report accompanying H.R. 4539, the fiscal year 1995 appropriations bill for the Department of the Treasury, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies. The bill as reported by the conference, totals \$23.5 billion in new budget authority or approximately \$136.8 million less than the Senate-passed bill.

Mr. President, I will have a longer statement which outlines in greater detail the provisions contained in the conference report. I want to take a few minutes to briefly summarize the conference report.

The conference agreement includes \$39 million for Treasury law enforcement activities as authorized in the Violent Crime Control and Law Enforcement Act of 1994. These funds will be used in fiscal year 1995 to enhance criminal investigations into the counterfeiting of U.S. currency; to beef up port and border enforcement activities; and to permit ATF to undertake compliance measures to ensure proper implementation of the firearms provisions of the crime bill. The bill also includes \$9 million to expand the number of gang resistance education and training projects in communities throughout the country where gangs pose a serious threat. This is a very successful

gang prevention program which is modeled after the DARE Program. GREAT projects are currently operating in eight cities nationwide as a direct result of the Federal funds previously appropriated to ATF. The additional \$9 million in fiscal year 1995 will be used to expand the number of GREAT projects to approximately 12 high-risk communities.

With reference to pay, the conference agreement authorizes a 2-percent ECI, or Employment Cost Index increase, for Federal employees in fiscal year 1995 and a locality pay adjustment of an estimated 0.6 percent nationwide. This provision was included in the House-passed bill and since the time the Senate acted, the President has announced that he intends to provide a 2-percent ECI raise and a portion of the second-phase implementation of locality pay to Federal employees. The provision in the conference agreement includes a prohibition on these pay raises for Members of Congress and Federal judges. Mr. President, this was a very contentious issue in the conference. While I have always voted against pay increases for Members of Congress, I believe that issue was laid to rest several years ago by only providing Members of Congress to receive nothing more than a cost of living increase. I think that was a reasonable approach. I was prepared to accept that approach, as I know the ranking member was. I am disappointed we got caught up in the hysteria, once again, that Members of Congress are not worth being paid an adequate salary and that they and judges should be singled out, for no cost of living increase.

I do not believe we should continue to browbeat ourselves over the cost-of-living adjustments. That is not a pay raise. The same goes for the judges.

How can we expect a quality justice system if we cannot at least give a cost-of-living pay raise?

However, it was clear that there would be no conference agreement without a provision banning a raise for Members of Congress.

With respect to the construction of Federal courthouses and Federal office buildings, in the past, this has been a controversial issue. The conference agreement includes \$601 million for new construction of GSA projects. For those Federal building projects which have not been authorized by the Senate Environment and Public Works Committee or the House Public Works and Transportation Committee, a provision has been included which prohibits the expenditure of funds by the GSA unless and until such authorization is approved.

The conferees took this action to avoid the continuing jurisdictional disputes with the authorizing committees.

As everyone in this body knows, this is my last year in the Senate. I have to say one of the most rewarding experi-

ences of my career has been serving on the Appropriations Committee with the distinguished chairmen that we have had, particularly the current chairman, the Senator from West Virginia [Mr. BYRD].

I have served on this committee for the entire 18 years I have been in the Senate. I have been either the ranking member or chairman of the Treasury Subcommittee for the past 12 years. My service on this subcommittee has given me an opportunity to understand and evaluate many diverse agencies ranging from the Department of the Treasury and Executive Office of the President to the General Services Administration, and the Office of Personnel Management.

I have been fortunate, when I was the ranking member and when I have been chairman, to have a chairman or a ranking member who wanted to cooperate and was willing to be a participant in helping find solutions to difficult budgeting problems. In particular, the current ranking member, Mr. BOND, from Missouri, has been an excellent partner in the process. I thank him and his staff for their cooperation and their efforts to help us find solutions to many problems which are the result of a difficult and shrinking budget.

We have done a lot. Working in a bipartisan fashion, we have been able to formulate and fund initiatives to interdict the flow of illegal drugs coming into the United States; upgrade and modernize border stations along the United States-Mexico border; redesign the antiquated automated tax systems of the Internal Revenue Service; enhance the investigative and compliance capabilities of the Treasury law enforcement bureaus; and ensure proper work space for the operation of all Government agencies. Over the years, it has been a lot of work, but work where the labor has been stimulating and satisfying. We have done a lot of positive things. The Appropriations Committee is one of the finest in this body. The members, from the chairman and ranking minority, to the staff, in my view, are the most professional in Government. They work under less than ideal circumstances and always try to put the needs of the country and the American people before partisan politics. I will miss this committee.

Mr. President, in closing, I want to compliment my very fine and able ranking member, Senator BOND, and his staff, Chuck Parkinson and Julie Dammann. They have been a pleasure to work with and I wish them well in the coming years. They have worked so hard to see this bill is finally going to pass today.

Mr. President, I also want to thank Patty Lynch, Cybele Cobb, and John Lebonate of my majority staff.

To reiterate, the conference report totals \$23.5 billion in new budget authority. This amount is \$915 million

above the fiscal year 1994 enacted level, but \$1.1 billion below the President's budget request. Of the increase above the 1994 level, \$695 million is for mandatory programs over which the committee has little control. For domestic discretionary programs, the conference report totals \$11.8 billion, which is \$1.1 billion below the budget request. When you take out the IRS compliance initiative, totaling \$405 million, which was provided for in the budget resolution outside of the discretionary caps, the discretionary funding in the bill is actually \$1.5 million below the President's requested level.

As a result, this year the conference committee had a difficult task of trying to formulate an agreement which adequately funds the President's priorities, law enforcement, personnel management, taxpayer service, and returns processing, and meet Federal building requirements. I think we have done an excellent job, under the circumstances. The bill reported by the conference committee provides funding of: \$10.5 billion for the Department of the Treasury; \$92 million for the payment to the Postal Service Fund for free mail for the blind and overseas voters and payment on the debt to the Postal Service for subsidies to certain preferred rate mailers; \$148.9 million for funds appropriated to the President for Federal drug control programs; \$601 million for the construction of new Federal office buildings and courthouses through the General Services Administration; \$11.7 billion in various mandatory Government payments through the Office of Personnel Management for annuitant and employee health, disability, retirement, and life insurance benefits; and \$338 million for various independent agencies.

The bill also contains a new title, title VII, which provided funding to Treasury law enforcement agencies for implementation of the provisions of the recently enacted Violent Crime Control and Law Enforcement Act of 1994. As authorized under title 31 of that act, \$39 million has been made available for the following Treasury enforcement activities: \$2.4 million for the Departmental Offices for the Office of Enforcement to oversee the implementation of the crime bill provisions; \$2.7 million for the Financial Crimes Enforcement Network to enhance the investigation of financial crimes; \$7 million for the Bureau of Alcohol, Tobacco and Firearms for the enforcement of the firearms provisions of the crime bill, including the assault weapons ban; \$9 million for the implementation of additional gang resistance education and training [GREAT] programs nationwide; \$4 million for the U.S. Customs Service for expanding border and port enforcement; \$7 million for the Criminal Investigation Division of the Internal Revenue Service for combating public corruption and expanding il-

legal tax enforcement activities; and \$6.6 million for the U.S. Secret Service for expanding investigations into the counterfeiting of U.S. currency and enhancing forensics capabilities to aid in the investigation of missing and exploited children.

For the Treasury law enforcement bureaus, the conference report includes an additional \$12 million for the restoration of 212 full-time equivalent positions which were proposed for reduction in fiscal year 1995 to comply with the President's Executive order on the reduction of the Federal work force. The only way that so-called war on crime can be effective is through the combined efforts of Federal, State, and local law enforcement. I believe it is a big mistake to cut the strength of our Federal law enforcement agencies at a time when the American public is telling us that crime is the No. 1 problem in the country.

With reference to illegal drugs, the conference report bill includes \$98 million for support of Federal, State, and local law agency activities in the six designated high-intensity drug trafficking areas [HIDTA's]. Over the past 5 years, we have witnessed the success of coordinated law enforcement efforts through the HIDTA Program in Miami, New York, Los Angeles, Houston, and on the Southwest border. These funds go to support multiagency law enforcement operations aimed at disrupting major trafficking organizations.

In fiscal year 1995, the Baltimore-Washington Metropolitan Area will receive the funding assistance of this program to reduce drug trafficking and distribution. Also, in fiscal year 1995, the conference report provided an additional \$9 million for the Puerto Rico-U.S. Virgin Islands area. These funds can only be expended if the Director of the Office of National Drug Control Policy determines that this area meets the criteria for a HIDTA designation and so designates this area. I have received every indication from the drug czar's office that this in fact will occur.

The conference report also includes \$1.5 billion for the U.S. Customs Service. This includes the restoration of roughly one-half of the reduction proposed by the President for Customs air and marine interdiction activities. The President's budget proposed a \$52.6 million cut based on the revised interdiction strategy which will focus increased attention on the source countries and reduce interdiction in the transit zones, the theory being that if you build a fence around the area where the flights are originating from, you won't have to worry about interdiction through the area where the drugs would transit. Realistically, however, we are never going to have a solid wall around the source countries. In fact, the current impasse with the Department of Defense's legal interpretation over surveillance flights in Co-

lombia and Peru has left the entire area wide open.

Mr. President, I hope the new strategy works. But, I am really skeptical. For this reason, the conferees restored certain funds to Customs to maintain an adequate level of border and transit zone interdiction capabilities and has provided \$15 million to the drug czar for a contingency if in fact the threat increases as a result of the new policy.

With reference to GSA building construction and repairs and alterations, the conference report includes funding for certain projects which have not been authorized. However, the conference report includes a provision which prohibits the obligation of funds for these projects until the Senate Environmental and Public Works Committee and the House Public Works and Transportation Committee authorizes funding for these building projects.

The conference report contains \$405 million to implement the President's tax compliance initiative for the IRS. Funding for this initiative was provided for in the budget resolution outside the discretionary caps. This initiative will produce additional revenues of between \$9 and \$10 billion over the next 5 years and will cost the Government \$405 million in fiscal year 1995.

I think this is a good and responsible conference report, Mr. President, and I commend the House subcommittee chairman, Mr. HOYER, for working closely with the Senate to formulate a bill which is not only good legislation but fiscally responsible as well. I also want to thank the ranking member, Mr. BOND, and the other members of the Senate subcommittee, for working with us in a bipartisan fashion to formulate a bill which funds the highest priorities.

I now yield to the ranking member, Mr. BOND, for any opening statement he may wish to make.

Mr. BOND. Mr. President, I rise to support the conference report on Treasury-Postal Service and general Government appropriations that is now before us. I also want to extend my sincere thanks to the chairman for the great work he has done on this bill in the past years. I have some further remarks I will reserve to the end of the consideration of this bill. But I want my colleagues to know that I truly appreciate the professional and able manner in which the chairman has handled this matter.

The chairman has outlined the highlights of this piece of legislation. It was not without some detours and a tortuous path, that we reached the point we are today. I do not wish to take a great deal of the time of the Senate, but there are a few points I think should be made with respect to this measure.

As I said, the bill is not perfect. Very few pieces of legislation are. But this bill does a lot with very limited resources. It is \$1.117 billion,

\$1,117,000,000, below the President's request. It contains a \$405 million initiative for the Internal Revenue Service collection initiative which was not included in the President's budget. If that was not included in this bill, the legislation would be \$692 million in outlays below the President's.

There will be those who will say that is great but you still exceed by almost \$1 billion the 1994 budget. That is true, but when you take into account the mandatory increases which total \$695.4 million, and the IRS collection initiative, this bill would be almost \$220 million below the fiscal year 1994 level.

I am very happy that we have been able to restore the law enforcement reductions the President slated for this budget. And again, I commend the chairman for being very strong and resolute in seeing that we did not make unwarranted and unwise cuts in law enforcement. The restorations are not large. But I strongly believe the personnel and assistance we are providing in this bill to Customs, ATF, and to the Secret Service, will have a very positive impact on the battle currently being waged against crime, against drugs, money laundering, counterfeiting and the other matters which the agencies under the jurisdiction of this bill deal with.

As I indicated earlier, we did the best we could with limited resources, but there were a few things we were not able to accomplish. One very important issue, one that we will have to address next year, and I will serve notice on the members of this subcommittee as well as my colleagues, we have to do something about the IRS tax system modernization program. If the IRS is to perform its duties, adequate funding for TSM's, tax system modernization it is called, is essential.

This bill does not include the funding necessary for the IRS to proceed at the pace which is the most effective. The IRS projects that TSM will help process returns more efficiently, and will identify taxes which are not being paid. Some will ask if TSM is so important, why have we not provided the amount requested. The answer is, the manner in which the President's budget was set up. This goes back to OMB, and the problem lies at their doorstep.

Let me discuss for a moment the budget request. The President's request exceeded the budget cap by \$3 billion. All of the appropriations subcommittees were impacted in order to accommodate the reductions necessary by this excessive request.

The budget for the Treasury Department also requested over \$250 million in user fees to offset appropriations for the Department. Those fees fall within the jurisdiction of other committees. This is an appropriations committee. It is not a tax increase committee. These fees are not fees that we can produce in this bill. If we would have funded TSM

at the requested level, we would have had to reduce every discretionary account in this bill by about 15 percent. A reduction some might argue for, but it is practically impossible. I would hope the President's next budget will be more realistic and recognize the realities of the budget process and the need for tax system modernization.

I believe that including the IRS collection initiative will provide that revenue. We had significant argument on the floor over that measure. People were saying, well, we are trying to collect more taxes. My answer to that is, for the 85 percent of the American people who pay their taxes voluntarily and honestly, it is an outrage that some in the remaining 15 percent are not paying taxes that are owed, and the burden that they shirk falls on the backs of those who voluntarily pay. And I think we owe it to the people who comply with the law to see that those who do not are pursued and that taxes are collected.

Mr. President, as I indicated, this bill has taken some interesting turns in the process. Maybe "interesting" is an overly-generous characterization. But we have the bill before us, and it contains the needed appropriations.

I express my sincere thanks to the chairman, to all of the members of the subcommittee for the hard work necessary to get this conference report to the Senate. I express thanks to the majority staff members, Patty Lynch and Cybele Cobb, and to Chuck Parkinson on the appropriations staff, and to Julie Dammann on my staff.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. I urge the adoption of the conference report.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the conference report.

So the conference report was agreed to.

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

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

The motion to lay on the table was agreed to.

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

Mr. BOND. Mr. President, I ask if the gentleman would withhold.

The PRESIDING OFFICER. Will the Senator from Arizona withhold?

Mr. DECONCINI. I will withhold.

Mr. BOND. Mr. President, now that this measure is passed I do want to take just a moment to express in more detail my thanks to the chairman. As has already been mentioned, this is the last regular appropriations bill that Senator DECONCINI will bring to the Senate floor. We will miss working with him next year, but I have the feeling that when we visit some of the in-

stallations, the vital Customs installations and other facilities around the country which are funded by this bill, we may not see the good Senator, but we will certainly see the result of his work and his efforts to make sure that these vitally important agencies are well-funded.

He has been a strong member of this subcommittee, serving the last 9 years as chairman. I have only had the pleasure of serving as a ranking member with him for the past 2 years, but it has been a great learning experience.

I think it is easy for me to speak for all of the members of the subcommittee, when I say that Senator DECONCINI has been exceedingly fair in his dealings with members. He has worked hard to ensure the agencies funded in this bill get what they need to operate and, quite frankly, Mr. President, that is not as easy as one would think.

When you look at what we fund in this bill, the operations of vital Government agencies, the Internal Revenue Service, the Postal Service, they are not a lot of things that warm the juices or stimulate the heart throbs of our colleagues, but this bill is vitally important to the effective operation of Government. It is not easy, when there are many other competing demands.

Throughout the year, Senator DECONCINI has worked hard to ensure these funds provided to the agencies, which are so critical in the operation of Government, are there. It would have been easy to make reductions for the sake of reductions, but all of us, as Americans would have suffered if the work of those vital agencies had been short-changed.

Of all of the legacies that Senator DECONCINI leaves, Mr. President, none looms larger than the tremendously positive impact he has had on Federal law enforcement. As I talked to Federal law enforcement officials, I saw many sad faces when they learned of the coming retirement of Senator DECONCINI. He has been a tireless champion of Federal law enforcement, especially Treasury law enforcement.

He was on the front line when the war on drugs began. In the 1980's, that was easy. Drugs were nightly news. But the problem remains the same today and in some ways it is much greater, but the news does not seem to notice it as much. Senator DECONCINI's fervor has not waned. He has been criticized, many times. He has had to take on budget requests from an OMB of his own party, but he has persevered.

That continued effort is reflected in this bill. And with the adoption of this conference report, we are keeping up the fight.

Mr. President, we will all miss the Senator from Arizona, but I hope and trust and pledge that we will continue to carry on his commitment, especially to law enforcement.

Mr. President, I thank the Chair.

Mr. DECONCINI addressed the Chair. The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. I thank my colleague. He is very gracious and kind. Everyone likes to hear those nice things about themselves.

Law enforcement is important, not just to this Senator, but also to the Senator from Missouri. Sometimes law enforcement gets forgotten because it does not have the constituents as many other efforts do. It is extremely important. And coming from a law-enforcement background as a former prosecutor, I found this subcommittee extremely interesting.

Serving on the Judiciary Committee, having wide jurisdiction over the Justice Department, much can be done to improve the fine law enforcement that we have today in the Federal Government. Much has been done. And much of it, I must say, has come from congressional initiatives. We need dramatic and positive leadership that is not afraid to come up here and lobby on behalf of law enforcement. So I thank my colleague from Missouri, and I appreciate his friendship, more than I can express here today, and the cooperative effort we have had together.

#### AVAILABILITY PAY

Section 633 of the conference report includes a provision which authorizes availability pay for criminal investigators. Availability pay will replace the administratively uncontrollable overtime [AUO] payments which are currently in effect. Because the conferees were concerned about the costs that would accrue to those agencies who currently do not pay their 1,811 agents AUO but would be required to pay 25-percent availability pay as a result of section 633, the conferees included a provision which permits the offices of inspectors general to forgo availability pay to their criminal investigators until any pay period within the last quarter of fiscal year 1995. The provision in the bill appears unclear and the conferees wish to express their intent that the head of the employing Office of Inspector General, and not the criminal investigators themselves, shall make the decision on when to make the availability compensation payments in fiscal year 1995.

Criminal investigators shall receive no less than the rate previously provided to them, up to date of enactment of this act, under the provision commonly referred to as administratively uncontrollable overtime [AUO] until such time as the maximum rate shall be paid as mandated by provisions of the Availability Act of 1994.

#### FORT MYERS COURTHOUSE AND FEDERAL BUILDING

Mr. GRAHAM. Mr. President, I ask if the distinguished chairman of the Treasury, Postal Service, and General Government Subcommittee would be willing to turn his attention to the

subjects of the Tampa Courthouse and Fort Myers Courthouse and Federal Building.

Mr. DECONCINI. I am familiar with these issues and would be pleased to discuss them.

Mr. GRAHAM. As you may be aware, in August the General Services Administration [GSA] received bids for a courthouse Federal building construction project in Fort Myers, FL. The lowest of these bids was approximately \$7 million over the \$27 million authorized by the Environment and Public Works Committee pursuant to GSA's cost estimate. I understand the GSA must now amend the building's prospectus and resubmit it to the Environment and Public Works Committee for approval.

Concurrently, GSA has indicated that it will not need \$7.5 million of funds appropriated for a Federal courthouse project in Tampa, FL. It seems sensible to me that the \$7.5 million once intended for the Tampa courthouse, now idle, be made available for the purpose of covering the \$7 million shortfall in the Fort Myers project. Does the chairman agree that these funds should be made available for reprogramming by GSA for the Fort Myers project?

Mr. DECONCINI. Yes. It is my understanding that if GSA does not use the funds for the Tampa project, the agency will reprogram that excess to meet the unanticipated needs of the Fort Myers facility.

Mr. GRAHAM. That is most welcome guidance, and I hope the GSA will be mindful of the interpretation made by the chairman of the subcommittee.

I appreciate the chairman's indulgence and offer my thanks for his attention to the needs of Florida's Federal space needs.

Mr. DOMENICI. Mr. President, I rise in strong support of the conference agreement on H.R. 4539, the Treasury, Postal Service, and general Government appropriations bill for fiscal year 1995.

This bill provides new budget authority of \$23.2 billion and new outlays of \$20.9 billion to finance operations of the Department of the Treasury; including the Internal Revenue Service, U.S. Customs Service, Bureau of Alcohol, Tobacco and Firearms, and the Financial Management Service; as well as the Executive Office of the President, the Office of Personnel Management, and other agencies that perform central government functions.

I congratulate the chairman and ranking member for producing a bill that is substantially within the subcommittee's 602(b) allocation. When outlays from prior year budget authority and adjustments for IRS compliance and mandatory programs are taken into account, the bill totals \$23.6 billion in budget authority and \$24.2 billion in outlays. The total bill is

under the Senate subcommittee's 602(b) allocation by \$0.2 billion in budget authority and \$40 million in outlays.

I would like to thank the subcommittee for including funding for a new Federal courthouse in Albuquerque, NM. This project has been in the planning stage for several years and now that it has been reviewed and approved in GSA's Time Out and Review, we are ready to start the long process of actual construction.

I would also like to thank the conferees for retaining my amendment which requires OMB to report to Congress on the manner in which procurement savings are achieved. Procurement reform is an important part of the National Performance Review's recommendations to reinvent Government and we should make sure that these savings are achieved in a proper manner.

I urge the speedy adoption of this bill.

#### STATEMENT ON TREASURY-POSTAL APPROPRIATIONS

Mr. SASSER. Mr. President, the Senate Budget Committee has examined H.R. 4539, the Treasury-Postal appropriations bill and has found that the bill is under its 602(b) general purpose allocation by \$166 million in budget authority and by \$40 million in outlays. This conference report is below its 602(b) crime allocation by \$1 million in budget authority and exactly meets its allocation in outlays.

I compliment the distinguished manager of the bill, Senator DECONCINI, and the distinguished ranking member of the Treasury-Postal Subcommittee, Senator BOND, on all of their hard work.

Mr. President, I have a table prepared by the Budget Committee which shows the official scoring of the Treasury-Postal appropriations bill and I ask unanimous consent that it be inserted in the RECORD at the appropriate point.

#### SENATE BUDGET COMMITTEE SCORING OF H.R. 4539, FISCAL YEAR 1995 TREASURY-POSTAL APPROPRIATIONS—CONFERENCE BILL

(In millions of dollars)		
	Budget Authority	Outlays
<b>VIOLENT CRIME TRUST FUND</b>		
Crime total	39	28
Senate 602(b) crime allocation	40	28
Difference	-1	(*)
<b>GENERAL PURPOSE</b>		
Discretionary totals:		
New spending in bill	11,575	9,268
Outlays from prior years appropriations		2,986
Permanent/advance appropriations	0	0
Supplementals	0	-33
Subtotal, discretionary spending	11,575	12,220
Mandatory totals	11,976	11,973
General Purpose bill total	23,551	24,193
Senate 602(b) allocation	23,717	24,233
Difference	-166	-40
General purpose totals above (+) or below (-):		
President's request	-1,033	13

## SENATE BUDGET COMMITTEE SCORING OF H.R. 4539, FISCAL YEAR 1995 TREASURY-POSTAL APPROPRIATIONS—CONFERENCE BILL—Continued

(In millions of dollars)

	Budget Authority	Outlays
House-passed bill	39	-56
Senate-reported bill	-144	-26
Senate-passed bill	-161	-38
Overall totals:		
General purpose, discretionary	11,575	12,220
General purpose, mandatory	11,976	11,973
Crime trust fund	39	28
Overall bill total	23,589	24,221

Mr. BAUCUS. Mr. President, I would like to ask the distinguished chairman of the Treasury, Postal Service and General Government Appropriations Subcommittee to clarify the intent of the conferees with respect to a provision in this conference report.

Since becoming chairman of the Environment and Public Works Committee, the committee with jurisdiction over the General Services Administration's public buildings program, I have worked long and hard to ensure that prospectus-level public buildings projects receiving appropriated funds are first authorized. The Senator from Arizona has been very cooperative in this effort and I appreciate his work.

While I am pleased that the fiscal year 1995 Treasury, Postal Service appropriations conference report does require approval of unauthorized projects prior to expenditure of appropriated funds, I am concerned that there is no reference made as to whom should make such approval.

I want to clarify that all unauthorized, prospectus-level public buildings projects, as defined by the Public Buildings Act of 1959, require authorization and approval of both the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation. Is it the intent of the conferees that all unauthorized, prospectus-level projects in this fiscal year 1995 conference report are to be authorized and approved in a positive manner by both authorizing committees before any appropriated funds may be expended for any construction, repair, alteration, and acquisition for which a prospectus is required?

Mr. DECONCINI. I would be pleased to respond to the Senator's question. It is the intent of the conferees that all unauthorized, prospectus-level projects, as defined by the Public Buildings Act of 1959—with the exception of projects funded through grants—are to be authorized and approved in a positive manner by both the Senate Environment and Public Works Committee and the House Public Works and Transportation Committee before any funds appropriated in this fiscal year 1995 conference report are to be available for any construction, repair, alteration, and acquisition activities.

Mr. BAUCUS. I thank the chairman. Let me also mention that I have enjoyed working with him on this issue and many other issues in the past. I thank him again for his cooperation.

## REDUCTION OF REGIONAL IRS OFFICES

Mr. D'AMATO. Would the chairman yield in order that I might clarify an issue regarding the Internal Revenue Service?

Mr. DECONCINI. Certainly.

Mr. D'AMATO. I thank the Senator. Mr. President, the committee is aware that the Internal Revenue Service is contemplating, based on studies conducted by the Service, reducing the number of regional offices from seven to five. The committee has been advised about the potential impacts this plan may have on the regional offices throughout the country, particularly on the large number of women and minority employees.

I believe that the potential costs associated with the Internal Revenue Service's reorganization plan and the impact that such a plan would have on the affected communities should be fully justified in writing by the Service prior to any action to close, move, or transfer functions from the current regional offices.

I wonder if the chairman would agree that, therefore, a thorough and complete analysis on the cost effectiveness of closing the regional offices and the potential impacts on the employees should be undertaken, completed, and reported to the Congress before further action is taken on this matter.

Mr. DECONCINI. I would agree with the Senator from New York, and urge the Internal Revenue Service to undertake such analysis before any closings occurred.

Mr. D'AMATO. I thank the chairman, and appreciate his consideration in this matter.

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.

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

The Senate resumed consideration of the conference report.

Pending: House amendment to Senate amendment No. 148.

Mr. HARKIN. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER (Mr. ROBB). The pending business is the conference report on the Departments of Labor and Health and Human Services.

Mr. HARKIN. Mr. President, I just have one item.

## INTERNATIONAL EDUCATION PROGRAM

Mr. HARKIN. Mr. President, I say to the Senator from Rhode Island [Mr.

PELL], we are pleased to be able to provide support in the amount of \$3 million in fiscal year 1995 for the International Education Program in title VI of the Goals 2000: Educate America Act. Since this sum is \$7 million less than the authorization of \$10 million for fiscal year 1995, we would appreciate any guidance that the Senator, as chairman of the Education Subcommittee and author of this legislation, might be able to provide on the use of these funds.

Mr. PELL. Mr. President, at the outset, I want to express my deepest appreciation for the strong support the Senator has given this important program. Without his leadership, we would not be on the threshold of beginning an important program to aid the emerging democracies of Central Europe and the New Independent States that were formerly part of the Soviet Union.

I also appreciate the opportunity to clarify the intent of the authorizers of this legislation. As Senators know, the program is intended to provide a coordinated education and exchange program among highly successful civic and economic education programs in the United States and leaders in the same fields from Central Europe and the New Independent States which were part of the former Soviet Union. Although the legislation authorizes the U.S. Department of Education to make up to three grants each in the fields of civic education and economic education, we believe, in light of the limited appropriations, that the Department should award only one grant in each area—one in civic education and one in economic education. Each grant should be awarded on a competitive basis to the most qualified organization or consortium in each field. We believe a single grant is important in order to make sure that the program undertaken is of sufficient size and scope to be effective in accomplishing the objectives of this program.

Mr. HARKIN. Since I also serve as a member of the authorizing subcommittee, I both understand and agree with the clarification the Senator has provided and will be pleased to advise the Department accordingly.

I yield the floor.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, last evening, in discussion with the manager of the Labor-HHS appropriations bill, who I might say has done a magnificent job in bringing this matter to the floor as well as on the floor, I indicated that I was prepared to offer an amendment having to do with the issue of baseball, having to do with removing the antitrust exemption from the law so far as the pending issue was concerned and giving the players the right to go into court. It would be a limited

exemption from the antitrust laws. The players had indicated and have indicated that, if that legislation is passed, they would be prepared to go back to work.

I think the American people want to see baseball played. I do not think we can have a World Series anymore this year, but I think there is a real concern about whether the players will go into spring training. And if that not be the case, we might have a total shutdown of professional baseball in this country.

The question last night had to do with an amendment that I was prepared to offer and whether or not it was germane. The Senator from Nebraska had indicated he had objections and would probably move to table it. In the interim, there have been some new developments. I am informed that the House subcommittee on this issue intends to report out a bill pretty much similar to the legislation that Senator HATCH and I have offered in the Senate and that there is every likelihood the House Judiciary Committee, if it comes out of the subcommittee, then would move forward with the passage of that legislation through the House, or at least report it to the floor for passage.

Those being the circumstances and not wishing to delay my colleague, Senator HARKIN's efforts in connection with the passage of this bill and knowing that the D.C. appropriations bill is standing in line to come to the floor, and having been advised by the Parliamentarian that the question of germaneness is probably equally applicable to putting it on this bill or that bill, I do not want to stand in the way of passing the Labor-HHS bill. I think it is a very important piece of legislation. I think those who have managed it, Senator HARKIN and Senator SPECTER, have done a good job. And so I just want to say I will not offer it, but I will offer it, in connection with Senator HATCH as well as other cosponsors, on the D.C. appropriations bill.

I wish the managers of this bill good luck.

Mr. SPECTER. Mr. President, I am delighted to hear the statement by the distinguished Senator from Ohio [Mr. METZENBAUM]. I thank him for that. It is true that if we do not proceed now to finish this bill, there will be a very substantial impact on the important accounts in education, health and human services and labor, taking the lower figure between the 1994 budget and the conference report.

I share the sentiments that the Senator from Ohio has expressed about baseball. He and I have worked on the Judiciary Committee during my 14 years here, and we were very deeply involved in the antitrust issue way back in 1981 when the Oakland Raiders moved to Los Angeles, and we had Judiciary Committee hearings to discuss

the issue in great depth and have on many occasions since—back in 1984 when the Eagles were about to move to Phoenix.

My own view is that professional sports has a status of being affected with the public interest, so that the fans have a very unique interest in baseball and in football, and those sports and others enjoy a special status under the antitrust laws—full exemption for baseball, which was founded on an opinion by Justice Holmes in 1922 that baseball was a sport, a situation which has long since changed and admitted by all the participants in baseball itself.

We have had the issue come up as to football and its limited antitrust exemption as to pay-per-view on the Super Bowl and have gotten concessions from the leaders of the league. Former Commissioner Rozelle, now Commissioner Tagliabue, have made a commitment as to the year 2000.

There is no doubt about the indignation of the American people as to what is happening today in professional sports. We have just had the magnificent series on public television about baseball, and I personally made inquiries of the Commissioner of Baseball, the players representatives, Dan Fehr and Richard Ravitch. I have a very substantial interest in baseball as two major league teams are located in Pennsylvania, as does the Senator from Ohio. The Senator from Iowa ought to get a couple of major league teams as well.

The prospect of having no baseball next year and the consequence of no season this year and no World Series is really very, very regrettable. I do not know that the proposed legislation is going to have the desired result. I have searched the laws, the antitrust laws and the labor laws, from nook to cranny, and have been unable, nor has Mr. Fehr, Mr. Selig, or Mr. Ravitch, or the owners in Pennsylvania, to find an answer. But I am glad we are able to move ahead and get this bill completed.

I did not have an opportunity yesterday to thank the distinguished Senator from Maine [Mr. COHEN] for withdrawing his amendment, and other Senators who were going to put amendments on the bill, so we can move ahead with this very important legislation.

I would like to give special note, while I am on my feet—I know the chairman, Senator HARKIN, will as well—to extraordinary staff work. We were able to work this out in a minimum time. We had a conference—how long did it last, I ask the Senator? Eight minutes, which probably set a record because we were able to work together. And the majority staff of Ed Long, Jim Sourwine, Carol Mitchell, Susan McGovern, Bill Cordes, Ellen Murray, Gladys Clearwaters, and Antonio Clinkscales, along with Republican

staff Craig Higgins, Bettilou Taylor, and Meg Snyder did extraordinary work. They did outstanding work last year but this was even better.

I again express my profound and heartfelt thanks to my colleague, Senator HARKIN.

Mr. HATFIELD. Mr. President, as the Senate completes action on the conference report accompanying H.R. 4606, the Labor, HHS, and Education and related agencies appropriations bill for fiscal year 1995, I would like to highlight several items in the conference agreement. Before I do, let me congratulate the chairman, Senator HARKIN, and the ranking member, Senator SPECTER, for their work on this bill. The conference agreement carefully balances the competing needs facing the subcommittee. This is no easy task. I am especially grateful for their support on several matters of concern to me and to the people of Oregon.

#### DISLOCATED WORKERS

As many of my colleagues know, dramatic changes in Federal environmental policy in the Pacific Northwest have led to significant worker dislocations within the timber and fishing industries in that region. Thousands of families, and many communities, have had their livelihoods and economic base uprooted.

Earlier this year, I chaired a special hearing of the Appropriations Committee in Portland, OR, to examine whether existing Federal worker retraining programs are sufficient to meet the needs of workers. What became clear during the hearing was that they are not. The most compelling testimony was received from Kevin Browning, a dislocated worker from Roseburg, OR. Mr. Browning outlined for the committee how the current system of support fails to meet the needs of workers like himself. The central problem identified is the restriction on the use of Job Training Partnership Act funds for income support payments.

We cannot expect a worker to spend 2 years in training if their income support is limited to only 26 weeks of unemployment insurance. Yet the Job Training Partnership Act limits at 25 percent, the amount of dislocated worker funds that States can use for income support payments. State officials from Oregon testified to the need for greater flexibility in the use of Federal dislocated worker funds in order to better respond to the needs of workers, like Kevin Browning, who are involved in long-term retraining programs.

I am pleased to report to the Senate that the conference agreement includes language which will give States this flexibility. By easing restrictions on the use of funding, States have greater discretion to deliver additional income support, or needs-based payments, to dislocated workers. The language also extends the period of time in which workers could qualify to receive needs-

based payments. Current eligibility restrictions require workers to be enrolled in training within 13 weeks after being laid off. The review and award of supplemental Federal grant requests often comes well after the 13 week period. The conference agreement would make individuals eligible for needs-based payments, provided that they are enrolled in training within 6 weeks of the date the State received the supplemental retraining funds.

The conference agreement also includes \$1.29 billion in funding for the dislocated worker retraining program. This is an increase of \$178 million over the level appropriated by the Congress last year.

#### SCHOOL TO WORK

The conference agreement includes \$250 million for the recently authorized School-to-Work Program, an increase of \$150 million over last year. The School-to-Work Program will assist non-college-bound students make the transition from high school to the workplace. I am proud that Oregon was one of eight States to be awarded an implementation grant under this program this year and that Coos, Curry, and Douglas Counties in Oregon successfully competed for one of the locality grants. The funds provided in this bill will assist both existing and new grantees to fully carry out their proposed programs.

#### MEDICAL RESEARCH

Few Federal activities rise to the level of importance of medical research. For over 100 years, the Federal Government has supported research into the cause, treatment, and cure of disease. This research has yielded dramatic results over the years. Today, we are poised at the threshold of the worldwide elimination of polio, we have vaccines which immunize our children from diseases that once produced death and disability for thousands of children each year, and we have significantly reduced the mortality rate of heart disease. It is because of this support over the past century that the United States is the world leader in biomedical research and can boast the best health care services in the world.

These developments in genetics, molecular biology, and biochemistry, have spawned tremendous optimism and opportunity for advancing understanding and new treatments for disorders, such as Huntington's disease, cystic fibrosis, certain rare disorders and some forms of breast and colon cancers. The conference agreement includes \$11.3 billion to keep faith with our commitment to medical research. This is \$395 million, or 3 percent, above the level appropriated by the Congress last year. While I am pleased by this increase, I am concerned that at 3 percent it will not be sufficient even to cover the growth in costs due to inflation in the research sector.

As a member of the Appropriations Committee for over 20 years, I know that the stability we need in medical research cannot, and will not, be accomplished solely through the regular appropriations process. A dedicated funding source is required to ensure annual appropriations are sufficient to meet the challenges of reduced health costs and improved quality of life for millions of Americans suffering from disease and disability. It is for this reason that I joined with Senator HARKIN earlier this year in introducing legislation that would establish a fund for health research. The fund would be financed through a 1-percent surcharge on private insurance premiums. When fully implemented, Federal funding for medical research supported by the National Institutes of Health would increase by 50 percent, approximately \$5 billion annually. While I do not expect final action on this legislation this year, I expect to be back pressing for enactment of a fund for health research next year.

#### RURAL HEALTH

It isn't enough to solve the problem of affordability of health insurance for the millions of Americans who reside in rural communities. Access to health care facilities and providers by rural residents is an equally alarming problem. The conference agreement builds upon the committee's efforts of the past to help improve the availability of health care services and providers in underserved areas. Over \$201.8 million is included for programs to assist rural communities in recruiting and retaining health care providers, and in establishing and operating local clinics, hospitals, and other health care facilities. This is an increase of \$4.5 million over last year's level.

Of particular note is the \$24.6 million for the support of the Area Health Education Centers [AHEC] Program, \$2.4 million over the 1994 level. The AHEC Program provides assistance to schools of medicine to improve the distribution, supply, quality, utilization, and efficiency of health personnel in rural communities through establishing statewide regional centers for community based planning, and educational and clinical resource development. The conference agreement also includes language which permits the increase in funding, above \$18.7 million, to be allocated equally between "core" and "model" AHEC programs. Without this provision no additional funding would be available over the 1994 level for States, such as Oregon, which have a core center grant or States competing for new grants.

#### AIDS PREVENTION AND SERVICES

In addition to the \$1.337 billion appropriated to the Office of AIDS Research at the National Institutes of Health for research, the conference agreement includes \$1.283 billion for AIDS prevention and service programs.

Over \$590 million, an increase of \$47 million over fiscal year 1994, is provided to expand Federal HIV prevention activities. This increase in funding, coupled with the intense community planning activities which States have undertaken in the last year, should materially improve the effectiveness of federally supported HIV prevention programs. The conference agreement also includes \$633 million for AIDS services under the programs of the Ryan White CARE Act, including \$356.5 million for emergency assistance grants to cities most heavily impacted by AIDS. Fiscal year 1995 will be the first year Portland, OR, will qualify for these funds. While I had hoped that a cure for this disease could have been found before Portland, or any other city for that matter, became eligible for these funds, I know the funding will be welcome to the individuals, community based appropriations, and city officials who struggle on a daily basis to cope with the services needs of persons with AIDS.

#### COMMUNITY AND HUMAN SERVICES PROGRAMS

The conference agreement includes funding for a number of programs which provide essential support services to members of our communities who are poor, homeless, hungry, uneducated, and/or victims of domestic violence. Included is \$391.5 million for the Community Services Block Grant Program, \$32.6 million for family violence prevention activities, and \$399 million for assisting States and localities to resettle refugees. The agreement also includes \$3.534 billion for the Head Start Program, an increase of \$210 million over 1994.

#### EDUCATION

Our ability as a nation to compete in the global market in the future is largely dependent upon the ability of our education system to prepare the workers of the next century. This requires that the Federal Government maintain its education funding partnership with State, local governments, parents, and students. The bill before the Senate includes \$27.4 billion for programs supported by the Department of Education. This is an increase of \$868 million over the level appropriated last year.

Within the amount for the Department of Education is over \$7.2 billion to assist State and local education agencies in providing the educational services to disadvantaged children and their families, nearly \$1.6 billion is provided for elementary and secondary school improvement activities, and \$3.2 billion is included to provide appropriate educational services to children who need special education services.

I am particularly pleased that the conference agreement builds upon the progress achieved over the last several years in expanding Federal support for strengthening math and science education and for improving the math and

science skills of both teachers and students. The bill appropriates \$320.3 million for the Eisenhower Professional Development State Grant Program. The bulk of these funds will be used to provide grants to States for math and science professional development, with the remaining funds devoted to teacher training in the remaining core subjects. In addition, \$36.3 million is appropriated to support national math and science development initiatives.

Over \$7.7 billion is appropriated to provide financial aid to students involved in postsecondary education at colleges, universities, and trade schools across the country. This will provide Pell grants to over 4 million students and work-study assistance to over 700,000 students in the 1995-96 academic year.

Urban universities across the Nation are a critical component to the systems of higher education in their communities. The bill provides \$13 million, an increase of \$2.3 million over the fiscal year 1994 appropriated level to help these universities strengthen their community involvement in helping to solve the social and economic problems of the urban area in which they serve.

#### LIBRARIES

Finally, the conference agreement includes \$144 million to help our Nation's public libraries deliver services to the residents of their communities. Libraries play an important role in our education system. Children and adults depend upon libraries as a resource both for expanding knowledge and understanding, and for recreation. The conference agreement does not endorse the reductions proposed in the President's budget, but instead, maintains support for library services, construction, career training, and literacy programs.

Mr. HARKIN. Mr. President, I ask unanimous consent that the Senate concur in the amendment of the House to the amendment of the Senate numbered 148.

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

Mr. HARKIN. Mr. President, that finishes the Labor, Health and Human Services, and Education appropriations bill. Again, I want to express my thanks to the Senator from Ohio for his understanding and his cooperation in not offering his amendment dealing with the antitrust exemptions for baseball to this pending bill. I am not an expert in that area at all.

I just got handed a button by my colleague, Senator SPECTER, which says, "Free Amendment No. 148," which we just passed.

Mr. SPECTER. It came from Craig English, a staffer. This is not quite as important as freeing the 103d Congress, but this frees this important bill, so it is for the chairman, I say to the Senator.

Mr. HARKIN. I thank the Senator. I thank the staff for that. But I just want to again thank the Senator from Ohio for his understanding and cooperation. I know he feels deeply about this. And I think it goes without saying here that when the Senator from Ohio appears in the Chamber to offer an amendment, he is doing the people's work.

Mr. METZENBAUM. I thank the Senator.

Mr. HARKIN. He represents people and he represents working people. As I said, I am not an expert on this issue. I do not serve on the committee. I must plead some lack of knowledge of this whole issue. But I know that when Senator METZENBAUM comes here to fight as tenaciously as he has done all the years he has been in the Senate, he is usually—not usually, he is always—fighting for the little person. He is usually fighting for the person who does not have a lot of economic clout, a lot of money, and a lot of lobbyists and everything else around this town.

So, as I said, I do not understand the issue that well, but I know that if HOWARD METZENBAUM feels strongly about it, more often than not he is on the right side of the issue. So I appreciate that. I reserve judgment how I will eventually vote on it because I have to get briefed on the issue myself. But I appreciate his cooperation very much.

Mr. METZENBAUM. I thank the Senator. Good luck.

Mr. HARKIN. Again, Mr. President, I join with Senator SPECTER in thanking our staffs, both Republican and Democratic staffs. They have a great working relationship. We worked very closely from beginning to end in developing our appropriations bill. That is one of the reasons why we have had such, I think, good work in our conference committees. As Senator SPECTER said, it was a record—8 minutes—this year. Obviously, no one gets everything they want. It has been a tough year. We have had some very tough budget constraints, but we have been able to work them out. And it has over the last couple of years introduced a real strain of discipline on this subcommittee. With Senator SPECTER, I think we have responded to that discipline by trimming and cutting out waste and abuse, fat, whatever else we knew. We have tightened down on programs. We have gotten rid of programs. We have streamlined. And, quite frankly, I think we have come out of it in pretty decent shape.

So, again, Mr. President, I thank the staffs for their diligent and hard work. I thank Senator SPECTER for his close cooperation and close work in getting this bill through all of the stages from early this year until right now.

Again, I look forward to working with him again next year on another bill, and I hope we can set another record next year. I wish to thank Craig

and Bettilou for making up that button because I did not know how long we were going to be on amendment No. 148. We could have been here for a long time on it. We just got through, and now we can be assured that when the new fiscal year hits—what, this Saturday—all of those programs that we care so much about in education, in health, biomedical research, Head Start programs, low-income heating energy programs, we can move ahead to respond to real human needs out there in our country.

So, again, I thank Senator SPECTER for being such a good friend and for his close cooperation in working with us to get this bill through.

Mr. President, I yield the floor.

#### MORNING BUSINESS

Mr. HARKIN. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak for up to 10 minutes each.

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

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

The PRESIDING OFFICER. The absence of a quorum has been suggested. 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.

The Senator from Iowa is recognized for up to 10 minutes.

Mr. HARKIN. I thank the Chair for that recognition.

#### HAITI

Mr. HARKIN. Mr. President, I am going to be giving a little longer talk on Haiti a little bit later on this afternoon, but since we are in morning business right now I thought I would take a few minutes just to discuss a couple of items that appeared in the morning press this morning about Haiti, one directly on point and one sort of halfway on point.

I see on the front page of the New York Times this morning that there is a story that Congress is going to do a complete study of the need for the CIA and reformulating the CIA. I will just read the first few paragraphs from the New York Times this morning. It says:

Having concluded that Central Intelligence Agency cannot ably chart its course in the post-cold war world, Congress is creating an independent commission to rethink the agency's role and review its continued existence in its present form.

The new commission, being formed despite active opposition by the CIA's leaders \* \* \* will have the broadest possible mandate to propose changes in the structure, the power and the budget as well as the very existence of the CIA \* \* \*

"The place just needs a total overhaul." said Senator Arlen Specter, a Pennsylvania Republican who served six years on the Senate Select Committee in the Intelligence Committee and will be the senior Republican in January.

It goes on to quote Senator SPECTER: "We are spending a lot of money on the CIA and there have been doubts for years as to whether we are getting our money's worth."

You may ask: What does that have to do with Haiti?

Well, on the inside of the New York Times there is another article that says the CIA is reportedly taking a role in Haiti.

Well, I read the article. Basically, it says that the CIA may be involved in Haiti in terms of gathering intelligence on those that may seek to assassinate or to bring harm to Aristide and his supporters.

Now, again, Mr. President, I understand the need for intelligence, and especially in Haiti. We have 15,000 troops there, and they are at risk. So far, things have gone very well in Haiti. The people of Haiti are looking upon us as liberators. We see it every day in the paper. They are overjoyed that we have come to take over this terrible yoke of repression of their military and their ruthless police force that they have had in Haiti.

There may be instances where in the future those who wish to disrupt this process will provoke violence. It may happen soon. There may be instances where our own troops are put at an even greater risk. So we do need that intelligence and I understand that. And I am fully supportive of actions taken by our Government to get that kind of intelligence to protect our forces, to protect those now in Haiti, the parliamentarians who are bravely meeting to discuss the amnesty law, to protect President Aristide once he returns to Haiti, to make sure that we have knowledge of any actions that may be taken to provoke violence, to assassinate, to disrupt the process to restore democracy to Haiti.

But I am concerned about the CIA doing it. More specifically, I am concerned about who in the CIA will be doing it.

This Senator had an occasion a little over a year ago to have many meetings with the Director of the CIA and the people in the CIA about reports that they had come up with about President Aristide—reports which were given in secret session here with Senators just about a year ago in which it was put out. And this has all been in the popular press, so I am not divulging anything that was said in that room. In fact, I was not in that room during that meeting. I went up later on for a different meeting. But I had countless hours of meetings with the head of the CIA and the people that work under him who had been working on Haiti for some years.

Mr. President, all I can tell you is I was greatly disturbed by the misinformation and, I think, the total distortion of the record of President Aristide that was given out by the CIA. I will not go into it at any great length than that here, but I could point to instances, documented, where the CIA, quite frankly, was taking certain untruths and then passing them on as though they were indeed factual.

So my concern, Mr. President, is that the very CIA operatives and people who were involved before, first of all, in opposing President Aristide when he ran for office and who were actively involved perhaps in supporting another candidate for that office who did not win, and later on the operatives who were involved in picking up and moving erroneous, false information about President Aristide and then putting it out as though it was fact; that these same people will now operate in Haiti. That concerns me greatly.

And so I am hopeful that the legitimate need for the intelligence that we have will be carried out by individuals in the CIA or in Defense Intelligence who do not have some previous ax to grind, who maybe were divorced from this operation in the past. Because I am concerned that if we just go down that same path again with these same individuals who have shown their true colors that they have some certain ideological bent, that they have close connections with other elements in the Haitian military, that we might find ourselves, first, gaining erroneous information and erroneous intelligence information or, second, getting good intelligence information and not acting on it or diverting it in some way that will not be helpful to President Aristide and his supporters in Haiti.

So, I am very concerned about this report the CIA is now taking a role in Haiti.

It is reported here in the New York Times that the officials briefing Congress told lawmakers that one of the goals was to create a political climate that would help put into effect the agreement that former President Jimmy Carter reached with Lt. Gen. Raoul Cedras, Haiti's military leader, on September 18.

I do not know what that means, "to create a political climate." And I do not know that the CIA ought to be involved in creating a political climate. If this is true, then someone better put the reins on the CIA. Their job is not to create political climates. Their role is not to support one candidate over another. Their role is to collect information and intelligence and to pass it on to policymakers—that is us, that is the President—the policymakers who then act upon that intelligence. But I dare say their role is not to create a political climate.

So, Mr. President, the Congress is now reviewing the role of the CIA, with

comments from both sides of the aisle as to whether or not the CIA is effective or whether we are getting our money's worth or whether it ought to be revised and restructured. We are, right in the middle of this, in a very tense situation in a country close to our borders in which we have 15,000 troops. We have a lot at stake in ensuring that we continue on this process peacefully, that we continue on the process of returning President Aristide to his rightful place as the elected President of Haiti, in returning the parliamentarians who were elected in 1990, setting up the electoral structure in Haiti so they can again have free and fair and open elections sometime before the end of this year for their Parliament next year. We have a lot at stake. And while doing all this, I dare say it causes me a great deal of concern to think the CIA, now, is "creating a political climate." That is not their role.

I call upon the President of the United States to rein in the CIA, to make sure that those who are gathering intelligence in Haiti not be those who were charged with that before. I think they have basically established themselves as not being credible.

We need new people down there: Defense intelligence, Navy, Army, Air Force intelligence, those who have not been tainted by any of this. I am not saying everyone in the CIA is bad, do not get me wrong. There are good intelligence people in the CIA.

So I call upon the President and Director Woolsey to make sure we have a new team down there, that we have new people gathering this intelligence, and that they are not charged with creating a political climate but only charged with what they should do: That is gathering intelligence information so our policymakers can act upon that.

So, I will have more to say about Haiti later on. I just wanted to take this time during morning business to raise these very serious questions about the role of the CIA in Haiti. After all we have done, after all our military has done in Haiti—and I do not think there is any American who does not just get a great sense of pride from what our military has done in Haiti. We see the Haitian people turning over their arms to the military, treating them like liberators, the liberators they really are, and it gives us a great sense of satisfaction and pride in our military. I do not want that undermined by people in our intelligence agencies, especially in the CIA, who have some other ax to grind.

So I hope—again I just say for emphasis sake—I hope this report is not true. I hope the CIA is not involved in creating a political climate in Haiti.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

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

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

The Chair recognizes the Senator from Wyoming [Mr. SIMPSON].

#### FILIBUSTER

Mr. SIMPSON. Mr. President, I wish to briefly respond to various Senators' comments in the past days concerning the supposed Republican love affair with the filibuster. At a later date I intend to address the Senate in greater detail, armed with book, page and hymn number, and to provide a more detailed statistical corroboration to my comments.

For those observers of the legislative process here on the floor of the Senate, it may be apparent to all, as I said last week, that we Republicans are portrayed as a bunch of rabid Cro-Magnon individuals, wielding clubs in the mouths of our musty caves while utilizing arcane legislative procedures to disrupt the greatest and loftiest ideas of the enlightened who wish to assure an ever-expanding Federal role in our daily lives.

The implication by Senators who have criticized our use of this procedural check on a Government controlled by one party is that somehow we are acting in bad faith, considering "what the American people truly want us to do," which is the usual pitch.

It is unfortunate that such a view is incredibly narrow and simplistic and does not reflect the several different reasons we have to avail ourselves of this procedural right and, may I also add, "procedural defense."

It is in fact used as "a defense," but you do not read about that in the civics texts. Republicans were duly elected, too. I know that is strange to hear. The voters elected us, too, based on the principles we believe in. We ought to have the same right to have those principles judged by a majority of this Senate. However, that is not often the case. It is not true in every committee, but it is true in more of them than I would prefer, that Republican ideas for legislation are not allowed to see the light of day. Bills we introduce are frequently not given a place on some committee agendas. Amendments that we think are excellent never breathe. And, believe it or not—"Believe it or not," as Ripley said—some of the things that Republicans believe in are very popular with the American people and are darned good policy, too. But in the area where most of the legislative work takes place—committees—we Republicans too often get stifled. We get stifled.

Frequently, our only opportunity after being stifled is to have our legislation judged on the merits on the floor of the Senate. Under our rules, an

amendment does not have to specifically relate to the underlying bill, meaning it need not be germane. The majority party calculates and fully realizes that some of our ideas are worthwhile and are supported by most Americans. Yet they may not enjoy the full-throated support of certain liberal activists in the Democratic Party. Therefore, one option available to the majority is to eliminate even the possibility of voting on the Republican initiatives. How is that done? It is done by the filing of a cloture motion. That is what happens here. Because if they win that one, with 60 votes to invoke cloture, then only those amendments which are germane to the underlying bill are allowed. No more playing around with those embarrassing and pesky non-germane amendments, which probably would pass.

And, be clearly aware that some of these cloture petitions which have been so swiftly filed are cited as evidence of the horrid proliferation of the filibuster. We do not even have to wait anymore. You put up a bill and they say, "uh, oh, with their nongermane amendments, get them." These are really nothing more than offensive maneuvers—both meanings of the word—by the majority to prevent a minority from having our amendments offered to legislation and considered on the merits at the only juncture of the process that is left to us, and that is the Senate floor.

An example is product liability. I was on the other side of that one. Democrats filibustered that one, a lot of them. In order to get a vote on that issue, that measure had to be offered as a nongermane amendment. The fact we could defeat cloture is also the way we were able to get a vote on this administration's absolutely absurd policy proposal on admitting HIV-positive persons under our immigration system, and similar popular measures that we could not have raised without a nongermane amendment.

So what is the real underlying problem that leads to this frequent use of the filibuster? It is the lack of consultation. When our party had the White House, or at least one body in the Congress, consultation was critical. It was necessary. During the course of this Congress, consultation has too often been the exception and not the rule. It is very understandable to a politician how this happens. It is, "We have the White House. We have the Senate. We have the House of Representatives. So let us stiff them. We don't need them. We've got the horses."

It has not worked. It has been a very drastic and dramatic failure. And I am not talking about those old, tired, rhetorical statements about how we are going to consult with Republicans. We have all heard those. We hear it on the floor quite often. I mean real, honest-

to-God consultation. That is what I am talking about.

Republicans in the Senate have grown accustomed to being partners in the process—yes, sometimes junior partners, sometimes senior partners—but always we have had some higher level of participation.

Let us look at the record of this Congress, and there is quite a sizable positive record of legislation passed. You would never know that because all we hear about is gridlock and filibuster. That is not even part of it. We disagreed on the merits of the so-called stimulus package. What is worse is that we were not consulted about our views. Our compromise efforts—with certain Democrats joining us were stifled. The signal went up very clearly in this body as to what was going to happen to that bill. So we were stifled. We were closed off from even offering amendments. Ultimately we defeated that ill-conceived package, and I think the record has shown that we did the right thing.

Let us take another example, western Senators, both Democrats and Republicans. We felt aggrieved by the rangeland reform initiatives which were plopped down in the middle of the night in the Interior appropriations bill without sufficient hearings. This was not about grazing fees. What great revenue source is going to come to America from adding to the grazing fees currently paid by a bunch of Westerners? Let's say two or three bucks an AUM—it could get the Government \$30 million? But I have to stand here and watch \$5.2 billion in subsidies go to the corn guys, come on.

Much of that was an effort to get cattle off the western range, and to get human beings off the public lands. Certain people have been waiting 12 years, salivating at the chops to get rid of Reagan and Bush so they could get on with an agenda which they have not been able to pursue successfully. That proposal was plopped down in front of us without sufficient hearings, and in a bipartisan fashion that effort was rejected.

Striker replacement was another bipartisan effort to derail what even the Washington Post editorialized was a "bad bill." Of course, that was not obstructionist, that was just "good policy."

So in order to force good-faith modifications and force consultation on legislation we have utilized the filibuster to save billions of dollars in Federal spending this Congress.

Examples are the reduced spending levels we obtained in the so-called "Competitiveness Act." That was the only way we could get those changes.

As to the National Service Act, we were told: "Here it is. It is all yours. You are not players."

We said, Yes, we are. There are 44 of us, and we are players." So, we

changed that to a more rational bill, and I think with the honest approval of many of our reasonable and thoughtful colleagues on the other side of the aisle.

We cannot have any major impact on committee votes, and when we go to conference committee, you really can be gunned down in this league. Maybe that is going to change next year, by virtue of some of the already announced retirements. Sometimes in conference committee our efforts ignored even when our amendments pass 100 to 0. Now that is pretty sad. We get tired of it. So we are going to use what tools we can to try to improve a bill on the floor, since we cannot have any major impact on the votes in committee.

Some committees are much better than others. I serve on the Judiciary, and JOE BIDEN is extremely fair with us, even though I do not concur with him with regard to some matters. MAX BAUCUS on Environment and Public Works, tries very desperately to work in a bipartisan way. Other committees, just line them up, tee them up, and knock them down the fairway. There you are. Sorry, we could not consider your amendment. Sorry you feel that way. We have the horse. They flash their proxies and then move on. Then they wonder what happens to their product here on the floor. You know what happens to it here. Here the rules assure that we get heard.

So we were able to force consultation in improving the Hatch Act, which I did think was a turkey, but nevertheless we made some changes in it to make it better.

Motor voter—which we refer to as “auto fraudo” in our party—we improved that bill, too.

The crime bill was not what I wanted, but it was a better bill when it left the Senate. A good, bipartisan crime bill left the Senate. It got 93 votes. When it got over there, they just whooped it up. “We have the horses. Wait until we get to conference and really stiff them.” That is the way it works. The American people have to understand that.

So we stick together, when we can. I use the word “we” a little bit loosely, perhaps. Most successful efforts to defeat cloture are bipartisan. We have a few in our party, different ones each time, who choose to not support cloture efforts, for very valid reasons, but we usually get some bipartisan support for our efforts.

So let us look at what happened yesterday. Five Democrats joined 38 Republicans to prevent the so-called campaign finance bill from going to conference. Senators of the other faith who criticized the use of the filibuster in their statements did not utter a peep, or mention the five Democrat colleagues who had defected only the Republicans. “Those wretched, rascal

Republicans.” This is not the U.S. House of Representatives. I think too many people may have come here thinking this is some continuation of the U.S. House of Representatives, and the way they conduct the Nation’s business there. This is not. This is not where a majority party has abused the minority for nearly 50 years.

It is odd, to me, that the Democrat-controlled House of Representatives, at least in all of my dealings with them in conference activity, is there to protect every minority known to the human mind. Every single minority, whether flora, fauna, ethnic, whatever. But there is one minority that is impossible for them to accede to, and they are called “Republicans” and they are an abused minority.

This is not the House. This is the U.S. Senate. And it has a proud history of protecting the rights of a minority, and even a minority within a minority, whether based on party, philosophy, religion, or ideology.

If the complaining Senators want to see less frequent use of the filibuster, I respectfully suggest that those in the majority consider the idea of greater consultation with us, the Republicans.

When we work together, the entire institution benefits. Remember NAFTA. That was consultation. Honest-to-God consultation between the White House and the Democrats and the Republicans in both Houses. We helped pass that. And at no time had the popularity of this President been higher. No time. That is what people expected.

So now he sinks in the polls as his party’s stick-it-to-’em partisanship rises. It rises in the Senate, it rises in the House, and is hurting the President of their party.

I wanted to share those things.

We are here. You cannot shake us. We are part of this body. You really will not be able to escape us. I know you would like to, perhaps.

So, since we are here, every day, and draw the same pay, and do the same work, all indoors, no real heavy lifting, why not work with us? Then you would see less filibusters. And we are ready to do that. I think that is very important for the American people to understand.

I thank the Chair, and appreciate the courtesies. I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

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

The PRESIDING OFFICER. The absence of a quorum has been suggested. The Clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. FEINSTEIN. I ask to be recognized to speak as if in morning business.

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

Mrs. FEINSTEIN. I thank the Chair.

#### CALIFORNIA DESERT PROTECTION ACT

Mrs. FEINSTEIN. Mr. President, I listened with great interest to the comments in the Chamber a very short time ago by someone I have learned to respect, and that is the minority whip. I happen to have the privilege of serving with him on the Judiciary Committee, and I have a great respect for him. We have tried to work together on matters involving immigration, with which he is a recognized expert. In his comments in the Chamber, he indicated he did not believe that the Republicans were really responsible for the gridlock facing this Senate at this particular point in time and that very often they felt their amendments did not see the light of day; that they felt stifled, I think the word was, on some occasions.

I tried to apply his tests and his criteria to a piece of legislation that I authored which is being held hostage at this particular point in time and see if it was true. The bill is the California Desert Protection Act, which is a major bill which impacts California.

As I thought about it, as I listened to the distinguished Senator, I thought how can the minority, if this is true, be holding hostage the Desert Protection Act? And I began to look back.

Have I worked in a bipartisan way on the Desert Protection Act? The answer is yes. Sixteen Republicans voted for the bill when it passed the Senate. I worked in a bipartisan way with the House as well. The House has also passed the legislation. The legislation has been here for 7 years. And when I took it over, I talked with various Members of this body on both sides of the aisle. I said, “What do you need to vote for this legislation?”

I made more than 60 amendments in the bill to accommodate what I felt were legitimate needs the Cranston bill did not accommodate. I worked with the committee, attended the committee hearings, heard the comments of the committee, agreed to further amendments, heard amendments by the Republican side, agreed to many of them.

So when the bill left here, it passed by a substantial margin. It passed the House of Representatives a slightly different bill. And now I find the bill is being blocked from going to conference. So I went back and I found out. What does it usually take, when a bill affects one State and has passed both Houses, to stop it?

What I learned is, well, if one of the two Senators do not like the bill, that is usually enough to stop it. Is that true in this case? No, it is not. The bill from the beginning has had the strong and active support of my colleague and friend, Senator BARBARA BOXER. So both Democratic Senators from the State of California support this bill.

If the bill could get to conference, I know the issues could be reconciled in

a way that I could keep the bill's integrity and the commitments to the Republican Members who voted for and are concerned with the bill. I know we could produce a good bill for the people of California.

So I have worked in a bipartisan way. We have both Senators of the affected State supporting the bill. And not only that, we have support from the Association of Southern California Governments which includes the affected counties: Los Angeles, Riverside, Orange, Ventura, San Bernardino, and Imperial Counties. We have the support of 16 boards of supervisors representing 16 counties in our State. We have the support of 36 city councils representing 36 cities, including the 8 largest in California; 15 California newspapers have endorsed the bill; 118 conservation groups including the Sierra Club, the Wilderness Society, the National Parks and Conservation Association, the Garden Clubs, the National Audubon Society, Friends of the Earth, the Natural Resources Defense Council, and the Fund for Animals all support the bill. Public support in my State is very strong.

An independent Field Institute Poll showed that 75 percent of the residents of the impacted areas support the bill, and about the same number do statewide. The bill has 47 cosponsors in this body—47. Not 5 or 6 or 12 or 15 or 20 but 47 people have asked to cosponsor this bill. It passed, as I said, overwhelmingly on April 13. On April 13 of this year this bill passed the Senate by a vote of 69 to 29. Two Democratic Senators, who I believe would be in support of the bill, namely, Senators SHELBY and BIDEN, were not present. If they were, that would have brought the total to 71. The House passed a similar version by a vote of 298 to 128; a substantial victory in the House.

This is, as I say, a balanced bill. It protects some very significant resources and yet it recognizes important use of desert lands.

Over 60 amendments have been made to it. They provide reasonable vehicle access to important routes. They protect all private property. No private property is taken in the Senate bill. It permits all active mines to continue; and all livestock grazing to continue. It maintains hunting opportunities on over 10 million acres. And I have indicated that I have agreed to accept the House language on the preserve. It satisfies all military and law-enforcement needs. So accommodations have been made for this bill.

Well, I found that Republican holds had been put on the bill. The chairman of the committee made an offer to the Republicans to put some bills that he thought the Republican side wanted on top of this bill to get it moving. Then the hold became revolving and it continues to this day. So it could be one Member holding a bill that has been

overwhelmingly voted on by this body and by the other body that has the support of both Senators.

And I must tell you, Mr. President, I do not understand this. I do not understand how one or two or three or four or five people can effectively kill a piece of legislation which has been discussed in this body for 7 years, amended, and with which I did everything that I felt someone should do, which is consult on a bipartisan basis, bring in Republicans.

I placed phone calls before the cloture vote to 16 Republicans. I know I have better than 60 votes on every cloture motion. The first cloture motion on this bill had 73 votes to grant cloture. I know I have at least 60 on any other motion that is made. And yet, the minority will not let the bill pass.

So perhaps, as these speeches are made on the floor, it can be understood that there is frustration on both sides of the aisle. This is a bill that Republicans in the State of California support. It is a bill that Democrats in the State of California support. It is a bill that both Senators from the State of California support. It is a bill that has passed this House overwhelmingly. It is a bill that has passed the other House overwhelmingly. It is a bill we know the President will sign. It is a bill we know that can be confederated successfully and come back to this House and be passed successfully.

And yet, one, or two, or three, perhaps, hold up an entire piece of legislation which for 7 years we have tried to pass in this body, the largest wilderness protection bill since the passage of the Alaska Lands Act. And it is held hostage, for reasons I do not understand, by a very few people.

If it is to deny me a victory, Mr. President, I would submit to you that that is not the case. I got this bill through the Senate. My predecessors could not get this bill through the Senate. That victory is already there.

What the people who are holding this bill hostage are doing are denying a victory to the people of the State of California, 75 percent of whom want this bill passed by an independent poll—not my poll, but the California Field Poll. I have worked literally with hundreds of groups and individuals to remove their objections. I have tried to see that residents of the desert are protected and will not lose their property. The Senate bill does this. And yet the bill is held hostage. It is a good bill, Mr. President.

And so what I want to say to the distinguished minority whip is there is certainly frustration on both sides of the aisle. And I do not know what the solution is. For those of us who come to this body, bringing Democratic ideals, Republican ideals, I have always thought the challenge was to reconcile our differences, come together, bring our perspectives, try to develop a con-

sensus. And we have done it on this bill. We have done it on the California Desert Protection Act.

There is consensus. True, it is not unanimous, but support is overwhelming. We know we will get cloture. And yet, just a few Members can stop something which is of major impact and importance to a major area of the great State of California.

Perhaps it can be understood why frustration exists on both sides of the aisle.

I thank you, Mr. President.  
I yield the floor. I note the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum is noted. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1995, DISTRICT OF COLUMBIA SUPPLEMENTAL APPROPRIATIONS AND RESCIS-SIONS ACT, 1994—CONFERENCE REPORT

Mr. KOHL. Mr. President, I ask the Chair lay before the Senate a message from the House on H.R. 4649.

The PRESIDING OFFICER. The clerk will report the message.

The assistant legislative clerk read as follows:

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 3 to the bill (H.R. 4549) entitled "An act making appropriations for the Government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1995 and for other purposes and concur therein with an amendment.

The Senate resumed consideration of the amendments in disagreement to the conference report.

Pending:  
Gramm amendment No. 2585 (to House amendment to Senate amendment number 3), to strengthen the Violent Crime Control and Law Enforcement Act of 1994 by reducing the number of social programs and increasing the penalties for criminal activity.

Mr. KOHL. Mr. President, I would like to remind Senators where we are on this bill. On Wednesday September 21, 1994, the Senate began consideration of the conference report on D.C. appropriations. On that day the Senate voted 71 to 27 to adopt the conference report.

After adopting the conference report we then took up the amendments in disagreement. On the first such amendment the Senator from Texas offered an amendment. Certainly any Senator has that right, however, the amendment offered has nothing to do with the D.C. appropriations bill.

I understand that other amendments may be offered, and that while they may be germane under Senate rules, have nothing to do with the D.C. bill.

Mr. President, the end of the fiscal year is rapidly approaching. I can assure you that the D.C. government will have serious cash flow problems if the Federal payment contained in this bill is not received October 1. The city must balance its budget each year, the amount and timing of cash flow is very important.

Mr. President, I hope that my colleagues will find another way to accomplish their legislative needs and allow us to send this bill to the President without delay.

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

The PRESIDING OFFICER. Will the Senator withhold?

Mr. KOHL. I will.

The PRESIDING OFFICER. The Chair would like to point out the pending question is on the Gramm amendment No. 2585 to the House amendment to Senate amendment No. 3.

That is the current position of the Senate.

The Chair recognizes the Senator from Montana.

Mr. BURNS. Mr. President, we do have to work our way through these amendments. But I just want to remind the Senate that, if we do not have this bill or a continuing resolution, as of the first day of October the District of Columbia is, in essence, broke. So it may be a bill of convenience for a handful of Senators, but imagine the inconvenience to the city if we do not have any public schools, garbage collection, street cleaning, public libraries, youth services, child day care, classes at UDC, and so on.

So I urge my colleagues come to the floor, present their amendments, and let us get this bill passed—either that or a continuing resolution, whichever is the delight of the Senate.

I thank my chairman for his work on this and I yield the floor.

Mr. KOHL. 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. GORTON. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER (Mr. HARKIN). The Chair, in his capacity as a Senator from Iowa, is forced to object. Will the clerk please call the roll.

The legislative clerk continued the call of the roll.

Mr. GORTON. 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. GORTON. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business.

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

#### REAUTHORIZATION OF SUPERFUND

Mr. GORTON. Mr. President, as the number of days left in this 103d Congress dwindle, so does the opportunity to pass legislation to fix the Superfund, a law which almost everyone agrees is broken and is in dire need of repair.

The legislation reported by the Senate Committee on Environment and Public Works to reauthorize the Superfund law is obviously not perfect and not totally agreeable to everyone. Even many of its strongest supporters can think of areas in which they would like improvement. I believe we could probably improve upon this bill, but I am firmly convinced that the legislation is both needed and a great improvement over present law and should be passed this year.

After months and months of hard work on the part of this administration and various interested groups, I am truly disappointed that it now seems more likely than not that the Senate will miss this opportunity to take up and to pass legislation to fix what primarily is broken with the Superfund.

Earlier this year, I joined with a bipartisan group of Senators in sending a letter to the chairman and ranking Republican on the Environment and Public Works Committee urging the enactment of legislation to reform Superfund during the 103d Congress. I signed this letter because I was encouraged by the results of the bipartisan efforts of the administration and others to craft a strong coalition of interested parties to reform the current Superfund law.

Mr. President, the administration deserves a great deal of credit for bringing together environmentalists, industry groups, other business groups, insurance companies, cities, and others to work through a myriad of complex and important issues and to produce a good piece of proposed legislation.

I believe the following to be true: When the administration works from the beginning in a bipartisan effort, the end result is often a good one. For example, the North American Free Trade Agreement passed by an impressive margin because it had the support not only of the administration but of large numbers of members of both parties. I supported the administration on the North American Free Trade Agreement and worked hard to see that it was passed.

Another example of the good results the administration finds when it works with both parties is perhaps the proposed reauthorization of the Safe Drinking Water Act. Legislation to reauthorize the Safe Drinking Water Act, which passed the Senate last May, was the result of the hard work of a biparti-

san group of Senators, a broad coalition of State, local and national groups and the willingness of the administration to listen to the concerns of the people who have to deal with this law on a daily basis. The end result of these bipartisan efforts was a bill that passed the Senate by a huge margin and had the strong support of this Senator and his constituents.

Whether that is true with the Safe Drinking Water Act amendments which have passed the House of Representatives, I am uncertain at this point. But at least we have the opportunity to do a strong bipartisan job.

I hope the administration will learn from its past bipartisan successes. I encourage the administration to reach out to members of both political parties and to work with affected groups to produce legislation not developed in a vacuum but which, instead, reflects the careful balance of competing ideas and points of view.

The administration's Superfund bill perhaps will not reach the Senate floor before we adjourn in spite of strong support on the part of this Senator and many of his colleagues in both parties. That will be a great disappointment, because the bill does address many of the problems which plague the current statute.

In particular, the bill will allow for faster cleanup of Superfund sites by establishing a national risk protocol. The bill will also transform the current system of looking for the deepest pockets at a given site, to one which seeks to assign cleanup liability in a fair and equitable manner.

#### RISK ASSESSMENT

S. 1834 would provide a mechanism for the faster cleanup of Superfund sites, which, after all, is the ultimate goal. This would be accomplished by the establishment of a national risk protocol and formula. According to the Senate report accompanying S. 1834,

[The] methods EPA currently uses for conducting risk assessments under the Superfund program have been criticized for inconsistency and for over-estimating the actual risks associated with such sites.

I have had countless meetings with big and small business owners on the issue of Superfund and they tell me that risk assessment is one of the most frustrating aspects of the current law. How clean is clean? How clean should a site be if it will continue to be used for industrial purposes? How clean should a site be if it will be used for residential purposes? Simple questions, and questions which deserve careful answers given the future use, and the contamination of, a given site. These are the questions which will be answered with a greater degree of certainty and flexibility than is currently provided by the law at the present time.

S. 1834 would require that the Administrator develop and promulgate a national risk protocol to govern the

methods and application of all Superfund risk assessments, thereby establishing a more reasonable and standardized process for conducting risk assessments. The risk protocol will put forward both standardized exposure scenarios and a formula for assessing public health and environmental risks.

The legislation does include risk assessment flexibility if the prescribed protective concentration level is too costly or technologically infeasible to achieve.

#### LIABILITY ALLOCATION

S. 1834 will also provide for the more equitable distribution of remedial costs at sites. S. 1834 will put an end to the nightmares of small business owners and other potentially responsible parties [PRP's] who fear being listed on the national priority list of Superfund sites. The bill would change the way in which liability amongst PRP's is allocated.

According to the committee report, An estimated 25-30 percent of all Superfund-related expenses go toward litigation. That litigation is divided between insurer/policyholder litigation, and suits by the government, or suits by PRP's against other PRP's to adjudicate and apportion liability.

S. 1834 seeks to put an end to the finger-pointing and endless legal expenses by using an out-of-court settlement in which a neutral allocator can be used to assign liability shares at a site. Each of the PRP's at a site would come to the table, and a neutral allocator would assign shares responsibility based on available information about each PRP's contribution to that site.

The bill would also address the concerns of hundreds of thousands of small business owners across the United States by allowing for the exemption of parties which contributed small amounts of waste and capping the liability of those determined to have had little to do with contamination at a site or have a limited ability to pay. The bill would also give small businesses and small contributors the opportunity to settle quickly.

Payments of an orphan share from the Superfund will go to those PRP's which are unable to pay for their cleanup costs because it is defunct or qualifies for an exemption under the bill.

And lastly, the bill also establishes the Environmental Insurance Resolution Fund to resolve disputes over Superfund liability between insurance companies and their policyholders.

Mr. President, the current Superfund process is one filled with uncertainty and fear for many small business owners, finger-pointing, and inaction. The current law has resulted in the listing of hundreds of sites, but has resulted in the cleanup of very few sites. This Senator is greatly disappointed that it appears as if the status quo will prevail for yet another year.

I hope that I am wrong. I hope that in the last week of this session we will have the opportunity to pass such a bill.

But, in any event, I look forward to working with the administration and my colleagues to promptly solve a very serious problem for many people and many places in the United States.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. 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. BAUCUS. Mr. President, I ask unanimous consent to proceed as if in morning business.

The PRESIDING OFFICER. Without objection, the Senator is recognized as if in morning business.

#### TRIBUTE TO MARIE DAVIS

Mr. BAUCUS. Mr. President, I wish to pay a tribute to the hard work, dedication, and loyalty of Marie Davis.

Since 1980, Marie has held the title of computer operator in my office. Yet Marie has been much more than a worker who simply enters names into the computer. It would be much more accurate to call Marie a quality assurance expert. While few Montanans know Marie, she has been the final—and the strongest—link in the chain of my office mail operation.

For 14 years, Marie has worked long and hard to see that the people of Montana received a prompt, high-quality response to their calls and letters. If the tone or the content of a letter fell short of Marie's high standards, she was never reluctant to let me and the rest of my staff know.

With her strong work ethic and attention to detail, Marie has rendered an important service to me and to the people of Montana. As one of the few members of my staff older than I, she has also been a source of wisdom, stability, and common sense for all of us.

Over the years she has broken in—and sometimes played the role of mother to—many young staffers who grew and learned under her wing. With 6 children and 13 grandchildren, Marie knows more than a little bit about keeping young people in line.

I would like to say that Marie is from Montana. Yet she was born and raised in the Washington area. But, if Marie were from Montana, I suspect she would come from Butte. And that, in my mind, is about the highest compliment you can pay a person. Like the people of Butte, Marie is fiercely loyal, speaks her mind, works hard, and has a heart of gold. And, like so many of the people of Butte, Marie is Irish—ada-

mantly Irish. So it seems appropriate to close this tribute with a blessing that so many of the Irish in Butte recite by heart:

May the road rise up to meet you  
May the wind be always at your back  
May the sun shine warm upon your face  
May the rain fall soft upon your fields  
And until we meet again  
May God hold you in the palm of His hand.

Marie's retirement will be a major change for that extended family that is the Baucus office. But I know that she and her husband Dick are looking forward to spending more time with their friends and their family—especially the grandchildren. I wish them well.

#### SUPERFUND REFORM ACT

Mr. BAUCUS. Mr. President, the Finance Committee has just completed markup of title 9 of the Superfund Reform Act. As a result, we are now in a position to reform Superfund this year.

The Superfund Program was created for all the right reasons, but the program is a mess. We've all seen examples back in our States. Local communities don't have a fair say in decisions. Cleanups are costly and slow. And Superfund generates huge, endless lawsuits that would make the lawyers in Charles Dickens' "Bleakhouse" blush with envy.

The Superfund Reform Act is designed to address these problems. The bill does several important things:

It makes it easier for States to run the Superfund Program, and involves the people who live in the neighborhood where a Superfund site is located.

It makes cleanups faster and cheaper. It reduces litigation, by reforming the liability system and establishing a settlement process for policyholders and insurance companies.

Overall, the bill will reduce cleanup costs, reduce the time that cleanups take, and reduce transaction costs by 50 percent. That is why the bill is supported by an extraordinary coalition of community groups, business groups, and environmental groups. Everyone from the Chemical Manufacturers Association, to the National Association of Counties, to the NFIB, to the Sierra Club.

Despite the broad support to reform Superfund, there are some who complain that we simply do not have enough time to act. I believe that, despite the nay-sayers, there is enough time to act.

And it is important that we act this year. If we delay, not only would we be squandering the best opportunity to reform Superfund in years—we also would be putting many businesses in jeopardy.

I received a letter from the National Federation of Independent Businesses, as did many of my colleagues. These small businesses—600,000 in all—may have best expressed how important it is to reform Superfund this year:

Small business owners \* \* \* are facing liability today; they may be facing bankruptcy tomorrow.

I urge my colleagues to work together to pass the Superfund Reform Act this year.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

Mr. BAUCUS. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue the call of the roll.

Mr. BROWN. Mr. President, I ask unanimous consent to proceed and the quorum call be suspended for the purpose of going into morning business.

Mr. BAUCUS. Mr. President, reserving the right to object.

Mr. President, I withdraw my objection.

The PRESIDING OFFICER. Without objection, the order for the quorum call is rescinded.

The Senator is recognized as in morning business.

#### HAITI

Mr. BROWN. Mr. President, it is my intention at the appropriate time to offer an amendment on the bill that is before the Senate which would involve a sense-of-the-Senate resolution with regard to the withdrawal of our forces from Haiti. Mr. President, I have wanted to offer an amendment dealing with Haiti for some time and at the request of the various members of the Appropriations Committee have held off on offering this to accommodate their concerns that, indeed, the consideration of those issues might delay some of those appropriations measures.

The reason I intend to proceed on this bill is, after discussion with a number of members of the Appropriations Committee, they have advised me that this amendment being offered on this particular bill would not unduly delay the appropriations process.

It had been my hope that the leadership amendment that was offered with regard to Haiti would have dealt with the withdrawal of our troops. It was a feeling of leadership that agreement could be reached only if this issue was held off. So I agreed at that time to hold off. But we should not go out of session without dealing with Haiti and without making our intentions clear as a body. There are some Members who believe that it makes sense to send our troops into Haiti to run that country and to do it without some termination date—but I am not one of them. I think it would be remiss of us to deal with the subject and not note that this Congress had expressed its feelings that be-

fore United States troops were sent to Haiti, before we invaded that country, that we at least have a vote of Congress to authorize that action.

Unfortunately, the President did not come to Congress to receive authorization to invade that country. And this Congress has not acted decisively on that issue. But out in front of us, I think, are some very important questions. Reasonable men and women will disagree whether or not it makes sense to invade Haiti. Reasonable men and women will disagree on whether it makes sense to try to occupy that country and run it. I believe it is a great mistake. And I believe it is a mistake that reflects upon mistakes of the past. This country surely learned in our experience in Vietnam that half-hearted commitments of military forces where we do not make our intentions clear can be mistakes. Surely this country learned from our experiences in Lebanon that sending United States troops in without a commitment to win and without a clear purpose can be disastrous.

No one needs to be reminded of the several hundred American marines who lost their lives because, incredibly, the guards at the gate did not have bullets for their guns. This country had subjected those marines to danger because they were afraid of the political ramifications, if the guards had bullets for their guns, if there was an accident.

How can anybody forget the tragedy in Somalia where, having received a request from the commander in the field for armored military vehicles as essential to perform their mission in Somalia, the Secretary of Defense refused to allow the commander in the field to have the equipment he said was needed for his operation. Resulting from that were the deaths of a number of American military personnel when their helicopter went down. They virtually ran out of bullets before they were killed by enemy forces. They would have had that ammunition if reinforcements had been able to get to them. And they held out for as long as they could, but eventually they ran out of ammunition. And the reason the reinforcements could not get to them—the reason reinforcements could not get to them was because we did not have armored personnel vehicles which could withstand the sniper fire. Attempts were made to get to those fighting men but, because the reinforcements went in open cars and were subjected to snipers, they could not get through. So the fact that the Secretary of Defense had refused to provide the vehicles requested by the commander on site, Americans lost their lives.

Using U.S. forces is something I believe should be done with great care. Not so many years ago, former Secretary of Defense Weinberger issued six points that he felt were essential before U.S. forces are committed to com-

bat. I will not deal with all of them. But I think several are worth mentioning and worth focusing on.

Secretary Weinberger, first of all, indicated that before we send U.S. troops into a combat zone or into harm's way we ought to make sure that it is vital to our national interest; that it should not be a casual act. I do not believe the administration has spelled out why occupying Haiti is vital to our national interest.

Let me remind the Members that occupying Haiti is not an adventure that is unknown or unheard of or untried. The Haitians are very proud of the fact that they broke off the yoke of colonialism. The Haitians survived 19 years of United States occupation earlier in this century, from 1915 through 1934. It is quite clear from the reports of that occupation that, far from bringing democracy, a viable long-lived democracy to Haiti, that we failed. I do not believe the Weinberger guidelines have been met with regard to Haiti. To suggest it is vital to our national interest to occupy that island—I do not believe the case has been made for that.

Former Secretary Weinberger also spelled out that any time we use U.S. troops, the mission ought to be clearly defined. Have we clearly defined what the mission is in Haiti? We have put young men and women at risk of their very lives but we have not spelled out clearly what the mission is. I draw the attention of the membership to a couple of facts. Far from having clearly defined what the mission is, it appears that this country is in a state of vacillation. Originally, the President pointed out that the purpose of the mission was to restore democracy and not to engage in nation building—a clear commitment of the President—not to engage in nation building and to restore democracy.

But the reality is that we have taken over Haiti and we have changed the mission. From not providing police support we are now actively involved in providing police, with our military forces in Haiti. From a commitment that said no nation building, we are now actively involved in the distribution of food. We are actively involved in a wide range of governmental functions. We even have equipment that has been sent to Haiti that is capable and designed to build their roads. It appears that the commitments of the President—that is, to restore democracy and not be involved in nation building—have been violated and violated within a few days of when those commitments were made.

Some have called it mission creep, but the simple fact is we have committed our forces in a dangerous area without clearly defining the mission that they are to perform. Secretary Weinberger's guidelines, that were meant to protect us from that, have clearly been violated. Secretary Weinberger also spelled out that we should

not commit military forces unless we have a clear commitment to win. It is a mistake we tragically made as a country in Vietnam. We never made our intentions clear and, as a consequence, almost 50,000 American lives were lost in South Vietnam without achieving victory and without ever a clear commitment from the United States—clear objectives, clear missions, clear commitment to win.

How many times do we have to learn the lesson? How many times must American men and women die before the leadership of this country understands the seriousness of committing U.S. troops to combat areas? Do the men and women who put on the uniform of this country not deserve a clear mission before their lives are put in danger? Do the men and women who put on the uniform of this country not at least deserve the political leaders to commit to win the combat that they are engaged in before we risk their lives?

Do not the American people have a right to demand before we put men and women in the field, that it be essential to our national interest? I believe they do.

One thing I do know; the judgment of this body may be that they want to have troops in Haiti. Without a clear mission. Without clear objectives. Without a commitment to win or achieve those objectives. And without seeing that our national interests—our vital national interest is involved. That is their discretion.

But this Member believes that we at least ought to go on record, and we at least ought to make clear when this mission is completed.

Almost every military adviser that has looked at these kind of adventures has advised that we ought to have some clear ending date. We ought to have some clear definition of when the commitment is over. When the battle is won. When we can bring our men and women home. It is why I offered an amendment that sets a date for withdrawal. It will be a sense-of-the-Senate resolution, but it will make clear to the executive and the American people a target date when they will bring them home.

Now the Senate has already acted to spell out to the President that we want them brought home as soon as possible. Yet, we have heard conflictive stories from the executive. Originally they would only be there until we have restored democracy. And then some said it would be a couple of months. Now lately we hear stories that it could be several years.

Before, Mr. President, before we make policy, before we make policy through neglect, we ought to make policy through planning. To send troops into another country and to occupy it, without at least spelling out clear objectives and clear goals and a time certain for the withdrawal, is folly.

Some will say, well, there are too many contingencies. There are too many unknowns. Mr. President, at least we ought to let the young men and women who go in harms way know that we insist that what they are there for be spelled out before we ask them to surrender their lives.

I, for one, think it is a mistake for us to have invaded and occupied that country at all. Others may think it was worthwhile. Perhaps we will never know a final judgment on whether that made sense.

But one thing I do know. To leave Americans there with no clear mission, and to leave Americans there with no departure date, is to invite disaster.

It will be my hope to have a record vote on a measure that sets a departure date.

Ultimately my hope is that this Nation learn from its mistakes in the past, not simply repeat them. That we not only honor those who gave their lives in Somalia, but that we make sure it does not happen again.

Americans understand that when we send troops into harms way that some can be killed. Some injured. And while that is tragic, we understand it may well involve the responsibilities of a greater power in this world. But what I believe is inexcusable, is to risk those lives without clearly spelling out a mission for them. Without clearly spelling out an objective. And without clearly making every effort possible to defend themselves and protect themselves and accomplish that objective.

Surely the U.S. Congress has that responsibility to those who wear the uniform of this Nation.

Mr. President, I yield the floor, and make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mrs. MURRAY). Without objection, it is so ordered.

#### DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1995, DISTRICT OF COLUMBIA SUPPLEMENTAL APPROPRIATIONS AND RESCIS-SIONS ACT, 1994—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. GRASSLEY. Madam President, I desire to speak on the pending business before the Senate.

The PRESIDING OFFICER. The Senator has that right.

Mr. GRASSLEY. Madam President, I support the Gramm amendment. I am a cosponsor of the legislation that forms the basis for the amendment because I

believe that if we are going to actually reduce crime, tough provisions like these are needed.

This amendment will strike the Local Partnership Act. The Local Partnership Act has nothing to do with fighting crime. It never had and it never will. The program was designed to be an economic stimulus. Now, it has been dressed up as an effort to prevent crime, but this is a hoax.

This money is for education, drug prevention, and jobs, all in the name of fighting crime. The vague language of this program provides no guidance on what this money can be spent for. We do not know exactly how the money will be used, but most likely we will pour money into the same old programs that have never worked.

In any other area of human endeavor, if something is tried and paid for, and does not work, and then more money is spent and it does not produce results, we try another approach. This Local Partnership Act rests on a different theory: Federal programs can only fail because the Government has just not spent enough to make them succeed. This makes no sense.

Vice President GORE's Reinventing Government report criticized the Government's redundant jobs programs. It concluded that there needs to be a better focus for these programs, and that they should be consolidated. I agree with the Vice President that Government needs to be reinvented.

And I see no reason why we should create additional jobs programs in a crime bill that would just increase the problems the Vice President discussed.

We need to set the right priorities for our crime bill. Social spending is exactly the wrong priority.

There is no evidence that any of the programs that will be cut by the Gramm amendment will reduce crime. Philosophically, the parties have a strong disagreement: Democrats believe that society is responsible for crime. Republicans believe that individuals lacking a sense of right and wrong commit crimes.

These individuals must be punished to keep us safer, and be held responsible, so as to discourage others from committing crimes.

We should also vote to eliminate the \$625 million waste that is the Model Intensive Grant Program. Under this program, 15 cities that are hand-picked by the administration would receive the grants.

The cities have complete discretion on how to spend this money, and it may be spent on anything to reduce crime. Anything but punishment or law enforcement.

That is a lot of money to spend on 15 cities. And I am sure that Iowa will not receive its share of this money.

I do not see any good reason why Iowa, with the lowest unemployment rate in decades, should be punished

from receiving its share of this money. The entities that would be aided by this money are already involved in preventing crime.

Of course, if these organizations are unable to prevent crime using the techniques they are using, there is no reason to think that merely increasing the amount of money they spend on these failed programs will cause them to succeed. We should focus on crime control, not poorly thought out boondoggles based on earlier failed efforts.

The Gramm amendment will cut the pork out of the crime bill. There is plenty of pork in the crime bill that we should eliminate, and the Family and Community Endeavor Schools Program is a good place to cut. This money is to be applied toward sports programs, cultural activities, arts and crafts, dance, and health services. The money can be spent on a wide variety of activities. About the only thing that the money cannot be spent on is religious instruction. That is expressly in the language. So, in other words, the money can be spent to give children condoms, but not to teach them the Ten Commandments. Teaching morality and personal responsibility is real crime prevention. The Family and Community Endeavor Schools Program has nothing to do with crime.

Do not just take my word for it. Look at the legislation the President signed. At least the Local Partnership Act had the fig leaf of saying that it was education to prevent crime. But this section does not even mention the word "crime."

It has nothing whatsoever to do with crime by its own admission. This is pork barrel social spending plain and simple. And it has no place being on a crime bill. On the merits, even its sponsors admit that.

The pork in the crime legislation is not limited to the \$7 billion in here that is expressly labeled as prevention pork. We were told how tough this law supposedly is. We were told how so much of the bill is really for law enforcement, especially prisons.

We should take a close look at the prison money.

What a close look shows is that the prison money is mostly pork, too. The language governing the prison money will not ensure that any money at all will be spent on prisons. The bill permits the money to be spent entirely on alternatives to prison. The grants can be used for boot camps, halfway houses, or alternative facilities to free up prison space.

I believe that people think that the prison money in this law is designed to incarcerate new prisoners. But it will merely make more existing prison space available.

It is bad enough that the law does not require that money be used for prisons. Worse, the prison language requires that as a condition of receiving

money, States enact further social spending. The States must include drug diversion programs, community corrections programs, prisoner rehabilitation, and jobs skills programs. This is social spending, not prison spending.

Additionally, there is no truth in the truth-in-sentencing language. Under truth-in-sentencing, a criminal serves the length of time to which he is sentenced. This has been accomplished in the Federal system, and the Senate bill was designed to provide incentives for States to do the same.

Today, States make their prisoners serve only about 40 percent of the time for which they are sentenced.

The bill the President signed cut back substantially on the truth-in-sentencing portion of the Senate crime bill. The incentives for States to abolish parole now only take effect for imprisonment of second-time violent offenders. And while the bill supposedly makes a 50-50 split in prison grants between general grants and truth-in-sentencing grants, this is not the case. The law contains a reverter clause. Money not used for truth-in-sentencing will be shifted to the general grants. Obviously, if States know they can get the prison money even if they do not enact truth-in-sentencing, then the incentive we created to create truth-in-sentencing will disappear. The Gramm amendment substitutes tough language to override these misguided approaches that the American people know will not make anyone safer.

We also need to be tough by restoring tough Senate crime provisions that were knocked out in conference. We should include mandatory minimum sentences for those who sell illegal drugs to minors or who use minors in drug trafficking activities. A person over 21 who distributed drugs to a minor would face a 10-year mandatory minimum sentence. A second offense would mean life imprisonment.

This amendment would also restore Senate language imposing mandatory minimum sentences for carrying firearms during commission of a crime of violence or drug trafficking crime.

For a first offense, the mandatory minimum is 10 years, 20 years if the firearm is discharged. Second offenses carry mandatory 20-year, 30-year, and life sentences.

These sentences are sorely needed. Drug use is a leading factor in crime. Surveys of inmates show that 50 percent committed their crime while under the influence of illegal drugs or alcohol. Strict penalties are necessary to punish those who distribute these drugs, particularly when the buyer is a juvenile.

Young people are especially vulnerable to drug use. We need to enact tough penalties to prevent drug dealers from hooking young people into a life of addiction, crime, despair, and possibly death.

This mandatory minimum, which this body has already adopted once, will serve to prevent drug dealers from taking advantage of young people, and the threat of life imprisonment for subsequent offenses will make all drug dealers take notice.

Too often, persons have sought to avoid tough drug penalties by employing minors to do the dirty work for them. Mandatory minimum sentences are appropriate for those who seek to avoid punishment by putting children in harm's way.

To me, there is no close question: The interests of our children are far more important than the interests of those who profit from involving them in a life of crime.

The crime legislation that recently became law will not accomplish nearly enough to address the overriding public concern about crime. The Gramm amendment will cut the wasteful social spending contained in that bill, and it will make sure that tough penalties are enacted. I strongly support its adoption.

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

The PRESIDING OFFICER (Mr. WELLSTONE). Without objection, it is so ordered.

Mr. COHEN. Mr. President, I ask unanimous consent that the pending amendment be laid aside.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT IN DISAGREEMENT TO THE SENATE  
AMENDMENT NUMBERED 6

The PRESIDING OFFICER. The clerk will report the next amendment in disagreement.

The legislative clerk read as follows:

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 6 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: "Provided, That the District of Columbia shall provide to the Committees on Appropriations of the House of Representatives and the Senate quarterly reports by the 15th day of the month following the end of the quarter showing how monies provided under this fund are expended with a final report providing a full accounting of the fund due October 15, 1995 or not later than 15 days after the last amount remaining in the fund is disbursed."

And

On page 13 line 9 of the House engrossed bill, H.R. 4649, strike the period at the end of the line.

AMENDMENT NO. 2594 TO AMENDMENT IN DISAGREEMENT TO THE SENATE AMENDMENT NUMBERED 6

(Purpose: To provide for enhanced penalties for health care fraud)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Mr. COHEN] proposes an amendment numbered 2594 to the amendment of the House to the amendment of the Senate numbered 6.

Mr. COHEN. Mr. 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. Mr. President, yesterday, during the Senate's consideration of the Labor, HHS, and Education appropriations bill, I offered an amendment to crack down on fraud that is rampant throughout our health care system. And while I believe that the amendment that I offered yesterday and have now reoffered today enjoys broad bipartisan support, I agreed with the managers of the bill to withdraw that amendment in order to allow for the expeditious acceptance of the conference report on Labor and HHS yesterday by the House.

I am now back on the floor, Mr. President, with the same amendment, because I believe we cannot afford to delay any longer the risks to our health care system by the fraud that is being perpetrated against it.

I know that there are pundits and politicians who are still arguing about who killed health care reform for this year. But one thing is certain. We should not wait a single minute longer to crack down on health care fraud.

There is strong agreement between Republicans and Democrats on the need to address this issue that is costing taxpayers dearly, is driving up the cost of the entire health care system for all of us.

As I told my colleagues on the floor yesterday, a year-long investigation of health care fraud and abuse that was conducted by my staff on the Senate Special Committee on Aging found that health care fraud and abuse is rampant throughout the Federal, State, and private health care programs. Losses to health care fraud and abuse over the past 5 years are almost four times the total cost to date of the entire savings and loan crisis.

What is perhaps most shocking is how easy, how shockingly easy, it is to defraud both the Federal programs, Medicare and Medicaid, and private insurers; that all of us are leaving wide open the doors to abuse, inviting scam artists to rip off the system.

According to the General Accounting Office—the GAO—and the FBI, as much as 10 percent of the entire health care budget is being lost to fraud and abuse each year. That amounts to roughly \$100 billion a year. If we start calculating out the numbers it means we are losing \$275 million a day; \$11.5 million an hour in health care dollars lost to fraud and abuse. While I must say the overwhelming majority of health care providers are honest individuals, the vulnerabilities to fraud exist throughout the entire health care system, and defrauding the system itself has become a routine way of doing business for many of the unscrupulous providers.

There are major patterns of abuse that plague the system and they are in the form of overbilling or billing for services not rendered; unbundling—for example you take a wheelchair and you unbundle the components by billing separately for the tires, the spokes as such, the seat, the arm rests, the back. And you suddenly build up the entire cost for that one wheelchair—unbundling is a very common practice for many, many devices sold to the Federal Government and private insurers; and upcoding services to receive higher reimbursements. In other words, if you have a product which you furnish, you simply upcode it to get a much higher level of reimbursement from the insurer or the Federal Government; or even providing inferior products to patients. There are other widespread scams involving the payment of kickbacks and inducements for referrals of patients, falsifying claims and medical records or fraudulently certifying an individual for Government benefits, billing for 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 Medicaid or private health care insurance.

So, our health care system is filled with abuse and Medicare/Medicaid and private insurers are simply ill-equipped and understaffed to deal adequately with the extent of this health care fraud. The formula for fraud is a very familiar one. There are too few investigators and overseers, a complex and unwieldy and burdensome system that is easily manipulated, there are big dollars at stake, and a very small chance that these unscrupulous providers, the professional patients, and the other scam artists are going to be caught.

To give an example, there are more than 4 billion claims that are processed annually. The two major law enforcement agencies with primary jurisdictions over health care fraud, the FBI and the Health and Human Services IG, however, have combined just under 450 full-time positions devoted to investigating health care fraud. That trans-

lates to one full-time investigator for every 8 million claims.

Think about that. One full-time investigator to oversee, investigate 8 million claims. The effect is that Federal, State, and private health plans are sorely outnumbered when it comes to detecting and protecting against fraudulent practices. I would like to share just a few examples of fraud against the health care system.

Two durable medical equipment owners stole \$1.4 million from the New York Medicaid Program by repeated billing for expensive orthotic back supports that were never prescribed by the physicians. The supplies were rarely delivered. An aggressive telemarketing campaign that offered inducements was a part of this scheme in order to obtain beneficiary Medicaid numbers.

A durable medical equipment company billed Medicaid for expensive incontinence liners when in fact it was providing only simple disposable wash cloths. Another example of upcoding. The company misrepresented the products in order to receive that higher reimbursement. The owner of a rehabilitation service operated a scheme to defraud Medicare by providing false claims for speech therapy provided to patients at nursing homes. The employees of the service were accused of falsifying billing, including certification by doctors that patients needed continuous speech therapy and they also falsified the patients' medical records.

A physician used fake diagnoses to justify billings for treatments never provided to patients. The billing practices included billing for treatment of appendicitis in a patient who previously had his appendix removed; billing for office visits that never took place; and billing for laboratory tests that were never performed.

These are just a very few samples, just the tip of a very large iceberg that is lurking below the surface. It is freezing out millions of Americans from affordable health care coverage.

There are many other examples that I could provide. They are all documented in this report that I filed on July 7, 1994. It is called "Gaming the Health Care System." From pages 12, 13—on through—we have given more examples of the kinds of abuse. I talked about them yesterday. I talked about the pad, the transparent dressing. I have a chart that I can perhaps demonstrate that transparent dressing with, but it is a waterproof transparent dressing. Basically it is a waterproof pad. There was an elderly lady who fell down in a boarding home in Maine. A local supplier found out that she had injured herself. She had received a cut of less than an inch long in her forearm. It did not require the services of a doctor.

That local supplier sent up these pads, waterproof pads. There is an example of it here. They are worth about

\$2.50—that is the cost. She received and used 14 of these. The supplier continued to send them, over 50 of them, to her. In addition to the pads he sent up gels and other volumes of these pads.

Do you know what the bill was? Mr. President, at \$2.50, I think she used 14—let us say at a maximum \$40. The bill came close to \$3,800 for this one-inch cut that required no doctor's services.

I mentioned these orthotic body jackets: A piece of plastic that is wrapped around patients who have some spinal surgery. I think they cost somewhere between \$30 or \$40 to manufacture. You could probably acquire them from a catalog for a little more than that price. Yet they were billed at \$550 or \$560 apiece.

I also mentioned yesterday the most glaring example of the prosthesis. It looked like it was taken off one of the dummies in a department store window—just a piece of plastic—a piece of plastic. It was supposed to be from the knee down, to cover people who had lost their leg in an accident or through disease. What was fascinating about this one prosthesis is that it had a right calf on a left foot—a right calf and a left foot. The supplier of that particular device billed you and me and all the American taxpayers \$8,800. HCFA then said it could not possibly be worth that much money—how about \$1,400 as a reasonable price for that?

As I said yesterday, it was not worth 14 cents. It was completely useless to anyone. But this is what is going on day after day after day, to the tune of \$11.5 million an hour; \$275 million a day; or \$100 billion a year.

I mentioned, again yesterday, that I offered an amendment to the crime bill dealing with criminal activity, title 18. It was agreed to without even a vote because I think it enjoys broad support in this Chamber. It was dropped in the House of Representatives because the House said: No, no, we cannot possibly take this up on a crime bill even though we are trying to combat crime in this legislation because it really belongs on a health care bill, health care reform. So let us strip it out of the crime bill and wait until we get health care reform.

Of course, here we stand at the end of September and we have no health care reform bill, not for this year. It will be months before we ever agree—here, then in the other body, then with the President. We are looking at months of debate and negotiation before we finally have health care reform that is a reality for the Nation.

So we are told it does not belong here—right church, wrong pew. It is crime but not on the crime bill, wait until we get on health care reform. So I wanted to get to health care reform and we have no health care bill. Now I am told do not put it on anything coming from appropriations, wait until next year. Just wait another year, wait

until we lose another—by the way, we have lost about \$85 billion since I offered the amendment to the crime bill and we passed the crime bill in the Senate and it was stripped out in the House. So we have lost roughly \$85 billion to date. By the end of the year it will also total up to \$100 billion. And we are told once again, let us just wait a few more months. We will be back at it again in January.

Of course, we all know we do not come in until the end of January. We go out almost immediately for the Lincoln Day recess. We come back in the latter part of February and we do not begin serious debate on legislation—we have to go through the committees once again with hearings after hearings and joint referrals to other committees, sequential referrals. We finally may get a bill to the floor and then we have to go through the same process in the House, then we have a conference, we come back and maybe by this time next year we will finally have a health care bill and we will say we finally dealt with health care fraud.

I do not think we can wait that long. I do not think it is fair to the American people. I think they are justifiably outraged when they look to us and say: We have a problem; you have identified the problem. Frankly, the President agrees. This legislation was in the President's health care bill. This amendment was in Senator MITCHELL's bill. This amendment was in Senator DOLE's bill. This amendment was in the so-called mainstream coalition group. Everybody agrees; everybody agrees we have a major problem. This will help fix the problem.

But because of procedural requirements we cannot take any action. Because those in the House say, "It does not belong on a crime bill, let us put it on health care." We do not put it on health care, we have no health care bill. We cannot put it on Health and Human Services appropriations because, after all, that will clutter up the legislation. It will have to go back to the House. So let us just wait until next year.

The amendment I am offering today will:

Give prosecutors stronger tools and tougher statutes to combat criminal health care fraud. It would, for example, provide a specific health care offense in title 18 so that prosecutors are not forced to prosecute under the mail and wire fraud statutes;

Allow injunctive relief and forfeiture for criminal health care fraud; allow health care plans and the Government to kick the bad apples out of the system entirely through authority to exclude violators from Medicare and other health care programs; create tougher civil penalties and remedies for fraud and abuse;

Coordinate enforcement programs and beef up investigative resources, which are now woefully 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.

This amendment also gives guidance to health care providers and industries on how to comply with fraud rules, so that they will know what is and what is not prohibited activity.

There is broad agreement on both sides of the aisle on the changes proposed by this amendment in order to stop fraudulent providers from bleeding billions of dollars from our health care system.

The provisions of this amendment, for example, were included in legislation I first introduced last year. They are also included in the so-called mainstream coalition health care reform bill and very similar provisions are included in Senator DOLE's health care reform bill and Senator MITCHELL's reform plan. Many of these provisions are also included in the administration's health care reform package.

Many of the proposals I am offering in this amendment are based on recommendations of a Health Care Fraud Task Force convened by the Bush administration, and have been endorsed by the current administration, numerous law enforcement agencies, and many health care provider groups.

In addition, as the distinguished chairman of the Judiciary Committee, Senator BIDEN, indicated on the floor yesterday, some of the provisions included in this amendment were passed as part of the Senate crime bill. Unfortunately, those amendments were dropped in conference by the House because House conferees argued that we should wait until health care reform to deal with this problem.

They are back here now in this amendment.

Federal and State law enforcement is making some progress in cracking down on health care fraud, but 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 keep pace with the sophistication and cunning of those they pursue.

I expect this amendment is going to be opposed by those who argue we have to wait until next year once again because this is really outside the scope of the pending bill. I must agree. D.C. appropriations—this is not where this legislation belongs. But I have run out of opportunities. I have nowhere else to bring this up. I tried on crime. I wanted it on health care. I wanted it on Health and Human Services and Education appropriations. Everywhere I turned they say, "Not here." You all agree, the President agrees, Senator MITCHELL agrees, Senator DOLE agrees, everybody on both sides of the aisle—

we all agree, but we cannot attach it here.

So, it is a point of frustration with me. There is anger out there amongst the American people. They say why are you not doing something? I stand up here on the floor and say, "Here is something. Here is something that is noncontroversial." Everybody agrees: Justice agrees, the FBI agrees, Senator BIDEN agrees, everybody agrees, but we cannot pass it.

So we have to watch another \$100 billion being lost to these people who are simply bleeding us dry. If you had to call them—I was thinking of even a book entitled "Fast Bucks." Boy, are people out there making fast bucks at our expense. Millions, billions of dollars that they are scamming, and we sit idly by waiting for the right procedural mechanism to come along so that we can do something about it.

Mr. President, if I had my choice, I would not be offering it on the D.C. appropriations bill. I think D.C. appropriations is as important as any of the other appropriations bills. I thought it was more germane to the Health and Human Services appropriation. I thought it was more germane to the crime bill. Obviously it is germane to health care reform. But none of those are available. None are available. So this is a last resort.

We are going out presumably next week or the week thereafter. I have heard rumblings about a lameduck session—which I think would be a mistake—but nonetheless, we do not have any more vehicles. We do not have another chance this session to pass legislation that will, hopefully, stem the tide. It cannot stop it altogether. But we can stem the tide of this kind of blatant, fraudulent activity, that is destroying our health care system in the sense that it is robbing people who need health care coverage, who cannot get it and we cannot afford to provide it.

How many more "60 Minutes," "Prime Time Live," or other types of expose shows are we going to have to watch, where they reveal how easy it is to rip off the health care system and have taxpayers just simply sit by and watch Congress fiddle up here while nothing gets done?

How much longer can some health care providers' groups delay in cracking down on health care fraud by this jurisdictional shell game? Do not put health care fraud in the crime bill, it is a health care issue. Do not address health care fraud until you pass health care reform. Do not fix the enforcement holes in the current system now, just wait until next year. And do not put these fraud measures on the appropriations bills.

Mr. President, I think we have got to stop hiding behind these jurisdictional arguments that justify doing nothing now. The only ones that benefit from

this delay on this important issue are the ones that bilk billions of dollars from the system.

The very big losers will be the American taxpayers, the patients, the families who cannot afford health care coverage, because premiums and health care costs are being padded to cover the exorbitant costs of fraud and abuse.

So Mr. President, I hope that my colleagues who have had an opportunity to look at the legislation will agree that it is worthwhile and worthy of their support. I hope in time that we have a chance to vote on it and to vote in favor of it now.

I would now yield the floor, and 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. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CONRAD). Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I ask unanimous consent that I be permitted to proceed for up to 15 minutes as if in morning business, and that the pending business be set aside and immediately taken back up at the conclusion of my remarks.

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

#### THE MOOD OF THE COUNTRY

Mr. BUMPERS. Mr. President, I have made a few speeches in the last 60 days dealing with the mood of the country—which, incidentally, I do not fully understand. And I do not think I am alone. I do not think there are very many people in the U.S. Congress that really quite understand what has precipitated the mood of the country, which is admittedly hostile; a good portion of it directed at the U.S. Congress and certainly toward the President.

It is a unique and unprecedented thing in this country for the electorate to be in such a hostile mood while at the same time the economy is perking along at a clip of about 3.5 to 3.8 percent; inflation as low as it ever gets; interest rates within a reasonable range, low enough not to impede business development; people are working and the jobless rate is down about 1.7 percent from where it was the day President Clinton was inaugurated.

And the best news of all, the deficit is going down more dramatically than ever before in the history of the country. The deficit, as a percentage of our GNP, is approximately half what it was when President Clinton was sworn in.

It has been a short 14 years since Ronald Reagan was elected President almost solely on the promise that he would balance the budget. And, with-

out recounting the details of that promise and the terrible results of that 12-year period, we all know what they were.

Yet yesterday, on the steps of the U.S. Capitol, at what I would call the Snake Oil Convention, the same proposals that President Reagan ran on in 1980 were thrown out again to the American people like a lure on the end of a fishing line, waiting for the American people to bite on it in November's elections—something in the program for every person in America, particularly those who are mad.

Three hundred Republican incumbent House Members and challengers promised to reinstate the dream IRA savings account. IRA's are very popular in this country. An awful lot of people have them. And the Republicans are going to take the cap off of the \$50,000 earnings limit for IRA's and say any and everybody can have them. So we know who is going to be able to establish IRA's under that plan yesterday by Mr. GINGRICH and the Republican incumbents and challengers. It will go to the top 20 percent of the wage earners in the country. And the cost 5 years from now will be \$8 billion per year.

Then they are going to provide a \$500 tax credit for every child. That has some merit at the lower income levels, though it does nothing for people who make under \$16,000 a year, no matter how many children they have because they are not in a taxable category. It does nothing for them. And it gives twice the amount of tax cut to a couple making \$180,000 as it does a couple making \$40,000. And I suspect that one of the ways they are going to try to pay for this is to either cut or do away with the earned income tax credit which actually did give lower middle-income and poor people in this country a substantial tax break.

So while I champion the idea of a middle-class income tax cut—and you can do it with increasing the tax credits for children; that is one way of doing it—it still has to be paid for. I have no idea what the cost of that is.

They want to cut the corporate tax, even though corporate profits are at an all time high.

There is just a goody in there for everybody. And it is estimated that it will cost, I guess, over the next 5 years, \$388 billion.

And then you get down to the really interesting part of the proposal, and that is: How are you going to pay for it?

People in the country that are paying attention ought to be euphoric about the conditions of the economy but especially about this dramatic reduction in the deficit.

Let me just digress a moment to say, virtually everybody on this side of the aisle voted for the budget reconciliation bill last year which raised taxes \$250 billion and cut spending \$250 billion and was calculated to reduce the

deficit by \$500 billion over a 5-year period—not balance the budget, but cut it \$500 billion below what it otherwise would be. And now that figure is up to about \$670 billion in deficit reduction. It was a very courageous vote by the 50 people on this side of the aisle who voted for it.

You know, the people send mixed signals to Members of Congress. They say, on the one hand, "Why don't you people stiffen your spine and make the tough votes? Why don't you vote courageously for a change?"

But, Mr. President, do you know what a tough, courageous vote is? It is, by definition, an unpopular vote. And so when you cast that unpopular vote, as we did last summer to raise taxes on the richest 1.2 percent of the people in this country in an effort to do something about the deficit, because they are the ones who can best afford it, when you do that and you go home, there is not a dirt farmer in Arkansas that did not think we had raised his taxes. It took a lot of tall explaining because it was an unpopular vote.

But, Mr. President, you cannot deal with a \$4 trillion debt by making everybody happy. The happy talk that we got in 1980 cost us \$3 trillion in 12 years. What a siren song we got in 1980—increase defense spending, cut taxes, and balance the budget. And that is the same siren song you heard yesterday afternoon on the steps of the U.S. Capitol, the same snake oil. We tried that \$3 trillion ago.

But back to the courageous vote. When you cast that courageous vote, then you go home and your constituents say, "You clowns don't care what I think. You just vote the way you want to." It is an ambivalent signal.

So where is all of this money going to come from to keep the deficit from soaring again?

Well, I will tell you. They say they are going to use the \$124 billion, I guess, that we were going to get under President Clinton's health care reform for Medicare \$114 billion from Medicaid. That is all well and good. The problem is, we did not get the Clinton health care bill. If you want to cut Medicare by that amount and Medicaid by that amount, that is just fine, but be prepared for an outcry.

And if you want to do welfare reform, which they refer to in quotes, "welfare reform," and pick up \$100 billion, tell the States, tell my Governor and your Governor who are on us constantly about mandating programs that they have to pay for. We mandate it. They have to figure out how to pay for it.

You tell them where they are going to find the money to provide health care for the poorest of the poor in their State under Medicaid when we cut \$114 billion. You tell them what they are going to do for the poor people when we cut food stamps and Aid for Families with Dependent Children by \$50 billion.

We have a bill that we are going to consider before we leave here to provide some relief to the States from the kind of mandates they have been squawking about.

When I was Governor of my State, we were forever and eternally requiring the cities of my State to raise the salaries of firemen. I came from a town so small we did not have a fire department, so that was all a mystery to me. But we were always raising the salaries of firemen, because it was popular with the firemen, but we did not send them any money. And the mayors would converge on my office and say, "Look, you're requiring us to raise the salaries of our people by cutting their work week. We don't have the money."

All I could do was stand there with a blank face.

And that is what Congress is doing to the States and that is what has Governors absolutely livid.

So to those people who stood on the steps yesterday afternoon, I invite you to tell the Governors of this Nation where they are going to find the money to make up for this \$388 billion that you are going to cut to pay for all these wonderful tax cuts for the well-to-do.

Well, if you ask for a more specific, definitive method of cutting spending, they have the best answer I have ever heard. "How are we going to cut \$388 billion?"

"Why, we are going to amend the Constitution of the United States to say that Congress has to provide for a balanced budget."

"Ain't" that beautiful—just write a little provision into the Constitution saying, "Ye shall have a balanced budget."

I have never voted for a constitutional amendment to balance the budget in my life. But if that is all there were to it, I would be for it. If all I had to do was stand on the floor and say I know that some mysterious thing was going to happen to balance the budget, count me in. Unhappily, you have to be a big snake oil buyer to believe that.

Well, they said we are also going to add the line-item veto which transfers more and more power to the President of the United States and away from the legislative branch.

I do not feel nearly as strongly, and I do not oppose the line-item veto nearly to the extent I do the balanced budget amendment, but neither one of them will balance the budget.

What will balance the budget is a majority—strike that—60 U.S. Senators standing on their hind legs, and saying, "I care about the future of the country. I deplore the lack of hope and the lack of faith that exists across this great land."

I have said this before, and it is not smart for a politician to say it, but I am going to say it anyway. If I had a goal of being carried out of the U.S.

Senate in a pine box, I know exactly how to vote. I would do like a lot of people do. I would get out of bed in the morning. I would walk out on my front porch and decide which way the wind was blowing and what the overnight polls showed, and that is the way I would vote.

But sometimes that can be very, very, wrong; not only sometimes, but often is wrong.

I do not believe the people elected a single Member of the U.S. Senate to simply do what is popular at any given moment.

It was irresistible in 1980. The people found it irresistible to believe that you could actually increase defense spending—yea, double it—and cut taxes and balance the budget.

One old farmer in Arkansas said, "What a dynamite idea, I wonder why nobody ever thought about that before." We now know why we have a \$4 trillion debt to show for it. Let the same people who stood on the steps yesterday take a poll among their number—see how many of them are willing to vote against the space station. Ask them how many of them are willing to torpedo Milstar, a worthless communications system down at the Defense Department that costs billions and billions of dollars. How many of them would be willing to cut back on D-5 missile purchases, which costs billions. And I guarantee you most of the people who stood on those steps yesterday support another 20 B-2 bombers, more aircraft carriers, more everything. Because they are scared to death if they do not when they go home their opponent is going to say they are soft on defense.

And what is this group out on the Capitol steps going to do about those mandates we are going to be imposing on the States? They take care of that, too. They are going to pay the States for all the mandates. We are going to cut welfare, AFDC, food stamps, all of those programs and dump it back on the States—but tell them we will reimburse them for it. Where is the savings? Of course it is popular with the Governors of the States to say we are going to fund all these mandates. It is popular with the people of this country to say you are going to cut welfare by \$50 billion.

If you want to get a big standing ovation at the banquet, just tell them that. There are 100 people here who are pretty savvy. They know what the applause lines are. They know how to play a crowd. Tell them you can have it all. There is no tomorrow.

One of the Congressmen who stood on the steps yesterday afternoon said, "If we do not do what we say the people ought to throw us out."

I would change that and say, "If you do what you say the people will surely throw you out." But the deficit will be up another \$2 trillion when they get around to it.

Then they call for a balanced budget by the year 2003. We are not only going to balance the budget in 2003 by cutting Medicare and Medicaid and unspecified welfare reform and other unspecified cuts, we are going to do it through economic growth. Does that sound familiar? That was always the answer in 1980.

How are you going to cut taxes, raise defense spending and balance the budget?

When you cut people's taxes there is going to be so much economic activity and they are going to pay so much in income tax the whole thing will just balance out.

I think maybe we are getting ready to get back on the bill and I do not want to take up more time, but I just want to issue this admonition. It sounds a bit preachy, but so be it. If the American people should, by some stretch of the imagination, buy into what I saw in the paper this morning and what I have seen from the Budget Committee about that proposal, they are saying "We do not really care how big the deficit is."

I can remember when they did. It is a strange anomaly, is it not? That for years the catalyzing political issue in this country was the deficit. And last year the deficit was down about \$50 billion. And this year it is going to be down almost \$100 billion less than it was projected to be 18 months ago. And back to the people who voted that courageous vote last summer, I have told those who are up for reelection this year—and every one of them is getting hammered by his opponents about it—I would not wait for my opponent to bring it up. I would bring it up first. I would say to my constituents: You want responsible Government? You want fiscal responsibility? You want your children and grandchildren to grow up in a Nation that is fiscally responsible and can educate its children and feed its poor and provide for a strong military? We are doing every bit of it right now and reducing the deficit at the same time.

Why are people not dancing in the streets? I do not know. So I close where I started by saying the mood of the people of the country is unfathomable to me. I know where a lot of it started: Term limits. It is an expression of the people's frustration about gridlock here in the U.S. Senate. It is a frustration about scandals from time to time. It is a frustration about the fact that real personal income is 20 percent less today than it was in 1970. It is because they don't believe their children will have as good a life as they have had.

My parents told me they wanted a better life for me than they had when they were growing up. When I was a child during the Depression, of course, that was easy. It was almost impossible not to have a better life than we had when we were children. But my fa-

ther told me so many times: "Son, I want all of you children to have every opportunity for a good education because I want you to have a better life than I've had."

He and my mother had worked hard, tilled the soil, taught school, ran a business, scraped up enough money so that together with the GI bill all three of us could get a good education.

Today parents cannot look at their children and honestly say you are going to have a better life than I had. An awful lot of children and young adults have lost faith in the future of this Nation, and there is not a Member of the U.S. Senate who does not know what to do about that. It is a question of whether we have the moral courage, the political stamina, and the intellectual honesty to do what it takes to say: Yes, things are going to be better for your children and here is why.

All over the world people are scratching and clawing, incidentally, to get to this country with all its flaws. We are still the oldest democracy on Earth. It is not working too well right now, but we still have it. We have that magnificent Constitution. We have these great institutions called the Supreme Court, the Department of Justice—which is not always fair but at least you get a shot at a fair trial by a jury of your peers. Those institutions and others are all in place and people all over the world are scratching and clawing to get to the shores of this Nation. And we are trashing the system as never before. What a paradox.

I made a graduation speech about 3 weeks ago and I made these points, that those clowns in Congress that you hear talked about in coffee shops all across America—this is the good part of the speech because it is complimentary of Congress—those clowns in Washington, for all of their foibles and their failures and their lack of courage, have provided this Nation with 205 years of uninterrupted, unfettered freedom. No other nation on Earth can even come close to that claim. So why are people not dancing in the streets?

One of the reasons is Rush Limbaugh does not think that. He does not think people have any reason to dance in the streets. There must be 500 little Rush Limbaughs across the country who believe that everything is wrong every day.

Jefferson said one time, "The price of freedom is eternal vigilance." That means different things to different people. But we have it and I do not want to lose it. I do not want to lose our economic freedoms. I do not want to lose our political freedoms. I want to see our culture mean something. I want us to spend money on educating our children and providing health care for our people. I want more people to appreciate the Constitution of the United States and their right and privilege to vote.

I took my family to the Eastern Shore the weekend after Labor Day. I could not afford to rent any of that property on Labor Day weekend, I had to wait until the weekend after Labor Day, but it was not nearly as crowded and a lot more pleasant. I have three great children—all married to in-laws that we love, believe it or not—and two wonderful grandchildren. We spent 4 days at the beach, and on the way home Betty and I were returning home through two States; I will not mention which ones. I stopped to get gas and this fellow was pumping gas into my car. I said, "How is the Senate race going over here?"

He said, "You asking me?"

"Yeah."

"I ain't never voted in my life and ain't never going to."

"Really?"

"No, it don't make no difference. Just like that place right over there."

"What place right over there?"

"That place over there where they are supposed to take in old folks. Half of them over there are 35 and under."

"You don't want to vote to change that if that is true?"

"No, it wouldn't make no difference."

I did not really want to pursue this conversation with this gentlemen any further. But I did tell him, I said, "You know, every time we have an election and you do not vote you are voting against the system that has provided you with all these freedoms."

I am getting off the beaten path. I just want to say the price of freedom really is eternal vigilance. And it also requires a few courageous votes from time to time around here. If you look at civilization, and read Barbara Tuchman's book "The March of Folly," and see what has happened to civilizations that ignore a lot of voices crying in the wilderness it has often been fatal. Do not do that. Even Yamamoto said: "Do not bomb Pearl Harbor. You people do not know anything about the United States. You will not win that war."

The warlords ran over him like a Mack truck. He could not stop them.

Even the Trojan horse, when the Greeks put the Trojan horse outside Troy's bastille, the debate was, "Should we let that horse in here?" One man spoke up and said, "That is a Greek trick. Don't do it." It's a long story, but they let the Trojan horse in, and the rest is history.

In World War I, a couple of German U-boat commanders said "You are depending on us to sink all that Allied shipping and we cannot do it."

You ought to read that book, "March of Folly," by Barbara Tuchman. She just died a couple years ago. She was a magnificent historian. And throughout the book, cool, collected intelligent voices said: "Don't do that. Politically it is wonderful, but in effect it is going to be disastrous."

So, I worry about what happened on the Capitol steps yesterday but I cannot imagine people's memories being so short that they would buy into Voodoo Economics II after we tried it 12 years ago—14 years ago, now—at a terrible, staggering cost to all of us.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1995, DISTRICT OF COLUMBIA SUPPLEMENTAL APPROPRIATIONS AND RESCIS-SIONS ACT, 1994

The Senate continued with the consideration of the amendments in disagreement to the conference report.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection.

Mr. BURNS. Mr. President, I want to associate myself with the remarks of my friend from Maine, Senator COHEN, and I want to commend him for his work on the Select Committee on Aging, of which I serve on that committee, and the work that he and his staff has done with regard to the fraud in the Medicare and Medicaid system. We have seen many examples of where fraud has taken place in that program, and, yes, even where our elderly have been taken advantage of by just plain old down-to-earth shysters.

We also heard a lot of testimony to that effect. If you couple with the figures—and there is no reason to believe that the figures that the Senator has shown us here today with regard to fraud in that system, and what it costs us—if you couple that with what we know as to be defensive medicine in our health care system, then we are talking about at least a 25- to 35-percent savings in our Medicare system. And you know right now we have probably taken some moneys out of the Medicare system to provide moneys to other programs. The President's tax plan did call for that.

And what essentially we did, every time we rolled back and put caps on services, fee for services, then we find ourselves in this business of—especially among the elderly—of selecting who is going to receive the services in health care.

We all hate to say it, but rationing does take place whenever we lower the caps down to below the cost of providing the service with our health care system.

So I want to commend my friend, the ranking member on the Select Com-

mittee on Aging, and the work that he has done.

And I would hope that the Members of this body, and the other body, would take a look and see what he is trying to do, what we are trying to do when we talk about fraud in a system.

When I was home on this last trip I was talking to the physical therapists of Montana, and they are bringing up some bad things that are happening in their industry or their part of the health care system. Whether it be through licensing and certifying those people who are equipped to do the work.

I congratulate my friend from Maine, and the work he has done, and I would hope that this body and the other body would take very seriously what we are trying to do with this amendment as this bill moves forward.

Mr. SASSER. Mr. President, I rise in support of an amendment offered by my colleague from Maine, Mr. COHEN, that would help the Government detect health care fraud while discouraging fraudulent practices by health providers.

For years I have held hearings and introduced legislation in an effort to reduce the stunning amount of waste and fraud in our health care system. Many of my proposals have been adopted either legislatively or through regulation. I believe Senator COHEN's amendment, of which I am a cosponsor, builds on some of the changes I have worked for and offers some fresh ideas for improvement.

Among its more noteworthy provisions, the amendment would establish a national fraud control group to act as a sort of clearinghouse and facilitator for all public and private fraud control efforts. In other words, efforts by the HHS inspector general, the FBI, Medicaid fraud control units and private companies could be coordinated under one umbrella. Such a centralized fraud control group would dramatically improve our current scatter-shot of good intentions that duplicates efforts while leaving some trouble spots untouched.

The amendment would also increase civil and criminal penalties for those convicted of fraud. And it would establish an account, dedicated to fraud prevention, into which a percentage of those proceeds would be placed.

Finally, the amendment would bar those convicted of fraud felonies from participating in Federal health programs in the future. It would also assist providers by offering them guidance for new regulations and making them familiar with new fraud and abuse laws.

Mr. President, this amendment will be a welcome tool for fraud control agents on the front lines of the battle against wasteful health care spending. I am pleased to be a cosponsor, and I urge its swift adoption.

I thank the President, and I would 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 (Ms. MOSELEY-BRAUN). Without objection, it is so ordered.

Mr. COHEN. Madam President, while we are awaiting decision as to whether any Member of the Senate wishes to raise a point of order against this amendment, I thought I would take a few more moments to try and demonstrate the magnitude of the problem we face.

I have several charts that were prepared by my staff on the Aging Committee, and you can see from this chart alone the dimensions of the problem.

In 1990, the health care fraud and abuse losses totaled some \$66.6 billion. In 1991, it went up to \$73.8 billion. In 1992, it climbed to \$80.9 billion. In 1993, it is up to \$93.9 billion. And the estimate for this year is \$103.4 billion.

This other chart shows, I think in very dramatic terms, exactly how much we are losing and have lost through health care fraud and abuse in the past 5 years.

By way of comparison, the losses in the savings and loan scandal was \$119 billion. We have lost, over the past 5 years, \$418 billion to health care fraud and abuse.

As I have tried to demonstrate, the ways in which the taxpayers are being robbed are shockingly easy.

The Aging Committee minority staff conducted a year-long investigation. I have a rather colorful cover of this report called, *Gaming the Health Care System*. It more or less looks like a monopoly board.

The types of things that take place are upcoding; prescription drug diversion; billing for professional patients; inflating charges for ambulance and taxi services; paying kickbacks for referrals; phony medical billing services; untrained home care workers; targeting nursing home residents; money laundering; falsifying prescriptions for supplies; fraudulent providers; making false claims; falsifying diagnoses; "phantom" therapy sessions; exorbitant prices for supplies; billing for inferior products; billing for items never provided; ghost patients; billing for excessive or unnecessary services; and unbundling.

Those are just a few examples.

I thought I would read portions of the executive summary of the Aging Committee Investigative Report to give a bit more detail of what we are talking about.

Physicians-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" several days after they had died;

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, elderly and disabled individuals were at risk from untrained and unsupervised aides;

Nursing home operators charged personal items such as swimming pools, jewelry, and the family nanny to Medicaid cost reports;

1,500 workers lost their prescription drug coverage because a scam drove up the cost of the insurance plan for their employer. The scam involved a pharmacist who stole over \$370,000 from Medicaid and private health insurance plans by billing over one thousand times for prescription drugs that he did not actually dispense;

Large quantities of sample and expired drugs were dispensed to nursing home patients and pharmacy customers without their knowledge. When complaints were received from nursing home staff and patient relatives regarding the ineffectiveness of the medications, one of the scam artists stated "those people are old, they'll never know the difference and they'll be dead soon anyway";

Durable medical equipment suppliers stole \$1.45 million from the New York State Medicaid program by repeatedly billing for expensive orthotic back supports that were never prescribed by physicians;

A scheme involved the distribution of \$6 million worth of reused pacemakers and mislabeled pacemakers intended for "animal use only."

How about that, Madam President. You are a patient who needs a pacemaker and one is installed that is intended for animal use only or one is installed when the time for the batteries has expired.

The scheme involved kickbacks to cardiologists and surgeons to induce them to use pacemakers that had already expired; and

A clinical psychologist was indicted for having sexual intercourse with some of his patients and then seeking reimbursement from a federal health plan for these encounters as "therapy" sessions.

Madam President, we have been at this a long time. Back in 1981, the Senate Special Committee on Aging sought out an expert in health care fraud—in 1981. Let me repeat that date. Here it is 1994, we are still talking about health care fraud. We are still pointing to charts in which the numbers are going off the chart. And yet, Members say, "We can't act now."

But in 1981, the committee turned to a cardiologist from Philadelphia. Let me tell you, Madam President, his credentials were impeccable. He was a noted physician. He also happened to be a convicted felon who had defrauded both the public and private insurers in three States for more than \$500,000 by submitting more than \$1.5 million in medical services he had never performed. Here is what he told the committee. He said:

The problem is nobody is watching. Because of the nature of the system, I was able to do what I did. The system is extremely easy to evade. The forms I sent in were absolutely outrageous. I was astounded when some of the payments were actually made.

This is a physician/convicted felon testifying as an expert witness before the Senate Aging Committee.

Well, we did not learn very much from this doctor's testimony, because now, 13 years later, he allegedly is up to his old tricks. Several months ago, he was arrested by FBI agents in Philadelphia and once again he was charged with defrauding health insurers for millions of dollars by filing claims for procedures that were never performed. Bail was set at \$2 million, and apparently he is currently awaiting trial.

I raise this point because, according to the U.S. attorney in Philadelphia, since 1974 this physician has had a total of seven arrests and five convictions for fraud in New York, Connecticut, and Texas. And despite his record, 4 years ago he was able to get his Pennsylvania physician's license reinstated, and he might still be in business today if a former patient who was angry about the false billings had not agreed to go undercover.

But I raise all of this late this afternoon, early evening, to point out that we have been dealing with this issue over and over again. That was in 1981. In 1994, we still do not have the kind of antifraud legislation that is desperately needed. And here we are this evening waiting to see whether someone is going to raise a point of order to say this is either not germane or it violates the Budget Act because it may cost a couple of million to implement, when in fact we are losing \$100 billion a year.

Explain that one to the American people. We are losing \$100 billion a year and yet we are standing here paralyzed and do not know whether to take action or not.

No one wants to put it on the crime bill. It does not belong on the crime bill. Where does it belong? We have Government people engaging in fraudulent criminal activities, but we cannot put it on the crime bill. They dropped it out of the crime bill.

We cannot put it on Health and Human Services appropriations. That is not appropriate. We cannot put it on the health care reform bill. We do not have a bill.

So here we are looking for some vehicle to say, "Can't we take one large step on behalf of the American taxpayers and at least try to stop the overt, outrageous forms of abuse with measures that the Justice Department would like to see, that the FBI would like to see, that attorney generals would like to see, that President Clinton would like to see, that Senator MITCHELL would like to see, that Senator DOLE would like to see." And we all agree.

I am still waiting here this afternoon for someone to say, "Well, there might be a point of order or some technicality that we don't want to vote on this."

So I hope in the next several minutes, perhaps the next hour, or within

the hour, someone will either raise the objection so we can vote or express the sentiment that we ought to pass this unanimously and let it go to the House.

I am told that, even if we pass this measure, it will be stripped out by the House of Representatives. Well, if that is the case, so be it. At least the Senate will go on record as saying we need this legislation. If the House of Representatives once again wants to take it out, as they took it out of the crime bill, let them do it. If they want to strip it out of this bill, let them do it again and be accountable to the American people.

I know a great deal has been raised about the Contract with America, with a group of Republicans who say if we are elected and being allowed to occupy the majority position in the House we will do the following things. And that has been attacked and criticized by a number of editorial observers.

But I must say, aside from their criticism, this is one thing we can all agree on. Republicans and Democrats alike, we can all agree. This is an issue we have not measured up to meeting. This is an issue which there is no disagreement upon. This is an issue which ought to have overwhelming support in both Houses.

But, we are told, "Wait until next year." We were told that last year. I introduced a bill over a year ago. A loss of \$100 billion again last year. We have lost \$85 billion this year so far and counting.

So, Madam President, just think of those numbers. I keep repeating them over and over again—\$100 billion a year. That is \$275 million a day, \$11.5 million an hour. That is what is going out in fraud and abuse.

So we have an opportunity to pass legislation which will give the tools to our Justice Department and to our enforcement agencies to say we are going to do our level best to stop this. They are certainly overwhelmed with cases, as I mentioned earlier this afternoon—one full-time investigator for every 8 million claims.

But, Madam President, this legislation will give some measure of hope to those who are charged with investigating these claims, some measure of hope that they will have added resources; that the fines and the penalties and forfeitures will go into a working fund and these funds distribution will be decided upon by both the Attorney General and the Secretary of HHS. No bounty hunting here. That is what some are worried about, that we are going to set up a bounty-hunting mechanism. This is just something that the Department of Justice and the Department of Health and Human Services will agree upon, to put the fines and forfeitures into a working account to expand the ability of these agencies to oversee the millions and millions of claims they are required to process.

So I hope that whoever has reservations about this will come to the floor and express them. And if a point of order is to be raised, we will have an opportunity to vote on that point of order. And if there are no points of order to be raised, that we go forward and take up other amendments.

I hope we can do that certainly within the hour.

Mr. BURNS. Madam President, will the Senator yield for a question?

Mr. COHEN. I yield to the Senator from Montana.

Mr. BURNS. I say to the Senator, the last time I was home, we were talking to some people who offered specialty services in the health care system, like physical therapists. It was their idea that, maybe in our certification and licensing of those people, we could do ourselves a big favor by tightening down those rules of certification and licensing, because they feel that it is too easy for some people to get into the field—and I think this is with all specialty fields—that there has to be something, a code of ethics or something, that goes along with this licensing and this certification.

Did the Senator find that in his hearings? Because I know he has held extensive hearings with regard to this.

Mr. COHEN. What we did find was that in a number of cases people who are untrained and unqualified to be delivering services are in fact being hired and their services are being billed out at professional rates.

So, indeed there has to be some tightening up at the State level. We are not seeking to impose Federal standards. This is something the State historically has regulated and should continue to regulate; that is, the licensing of individuals who qualify for these various specialties.

But it seems to me that is one of the classic cases of abuses where those who are engaged in these scams will hire individuals who are not properly trained. They put at risk the very people who are receiving some of these services. And they are being billed out at the highest possible professional rates. So that is another aspect of the type of scamming that is going on.

Mr. BURNS. I thank the Senator.

Mr. COHEN. Madam President, I do not see others who are rushing to go to the floor to debate this particular matter.

I yield the floor for the moment.

Mr. DOMENICI. Madam President, before the Senator yields the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Senator, might I first tell you that I appreciate your permitting me to be an original cosponsor of the amendment. Frankly, I compliment you wholeheartedly for what you are doing.

Actually, I think frequently we get so busy with ideas of reforming the

system and changing everything that we forget that standing right in front of us stark visible is fraud and gaming of this health care system. I do not think we really have to wait around to do that. I think now is the time.

Everybody knows that with the best of commitments—and I understand there are commitments from both sides of the aisle to start up again next year, hopefully in a more bipartisan way and perhaps without such an ambiguous agenda on reform, that we might get something done.

But, why should we wait? As I understand it, the fraud and abuse and gaming of this system is so incredibly big that the sooner we get started the sooner we are going to save some money.

Frankly, it is not going to work in 1 month or 1 year, or maybe even 2 years. So why do we want to put that off? We are worried about the excessive costs in the health care delivery system. Whatever those excessive costs are pushed by and caused by, we ought to try to fix. If the numbers that the Senator has received in his indepth testimony and hearings are anywhere close to right, one of the big reasons inflation is so high in the health care delivery systems is because of the gaming and fraud and abuse.

As a matter of fact, the Senator knows, as I understand it—he and I have spoken to this on the floor—one of the big reasons we started health care reform—while everybody now thinks it is a health care reform motivated by covering everybody, by so-called “when do we get to universality?” Actually the prime reason 12 years ago, in this most current episode that we started talking about reform, was because of the excessive cost. In fact it was the single pillar prompting and promoting reform for a long time.

Why is it 12 and 14 percent a year when inflation is 4? Why was it 16 when inflation was 6; going right through the roof? That was the predicate for reform. Now we have added some reasons, clearly, for reform. But this is one that contributes to that very first pillar, that you cannot keep delivering health care with current excessive annual increases in costs. Why we would not do this is beyond me, and perhaps the Senator has explained why we would not do it. But maybe he might tell me one more time, what is the trepidation or hangup on adopting something as simple as this?

Mr. COHEN. Madam President, if the Senator will yield, let me give my explanation as to what has taken place. First of all, we were told that this anti-fraud amendment—which, ironically, everybody is for, from the President to the majority and minority leaders and virtually everybody in this Chamber—should not go on the crime bill. I attached a portion of it to the crime bill. I attached Title 18, Criminal Sanctions,

to the crime bill by unanimous consent. Nobody disagreed with it. It went over to the House and they stripped it out saying we have to wait until the health care bill comes out because we will use this to pay for the health care bill. So the savings that would be realized from this, \$100 billion, we continue to lose on an annual basis.

Then they are saying that would pay for this expansive health care reform package when it comes to the floor, so take it out of the crime bill and wait until the health care reform comes and we will deal with it there. Then we are at a situation where we do not have a health care reform bill, and we are not going to get a bill until next year. The question is, “Should we wait another year?” And we begin, not in January, perhaps late February or early March. We start the hearings all over again with new bills being introduced. We go through the Finance Committee, we go through all the other committees, we come to the floor, we debate. There will be great debate as to which approach is the better approach. We will go to the House. The House will do the same thing. And finally we will come back here, I suspect, in September of next year, and maybe, just maybe we might have a health care reform bill at that time. But in the meantime we are going to be out another \$100 billion.

What is happening, and the reason the costs are going up, as my colleague pointed out so dramatically, at the rate of 14 percent as opposed to 3 or 4 percent, is that hospitals and others that are providing services and equipment are covering their costs. They are covering the costs they are losing by padding the bills to make up for the fraud. I used this example yesterday and again today. A woman from Maine who had a slight cut required really not more than a Band-Aid. She got this 6- by 8-inch transparent dressing. She used 14 of them. The cost should have been \$40. The cost ultimately billed for Medicare to pay was \$2,800. So it went from a \$40 cost to \$2,800. It was actually higher than that because there were additional gels and supplies sent to this woman, totaling \$3,700, almost \$3,800 for a cut less than an inch long. So somebody is picking up these costs and the people who are picking it up are the taxpayers in the form of their Medicare costs or Medicaid costs and also in their private insurance costs.

To give a couple of other examples. Two New York durable medical equipment suppliers stole \$1.4 million from the New York State Medicaid program by repeatedly billing for expensive orthotic back supports that were never prescribed by physicians. The DME sales force used an aggressive personal solicitation and telemarketing campaign offering—think about this—“free Angora underwear to Russian immigrants in Brooklyn in exchange for their Medicaid ID numbers.” The State

was then charged for the costly medical supplies that were never authorized by doctors and only rarely, if ever, delivered to the patients. And as described, these Angora underwear solicitations were again used as an inducement to obtain beneficiaries' Medicare numbers. They are offering Angora benefits to Russian immigrants to get their ID numbers so they can bill Medicaid for services never rendered or goods never supplied. It is an outrage, what is taking place.

The Justice Department, to prosecute these cases successfully, has to use mail fraud and wire fraud statutes. It is complicated. They would like to have a nice, clean piece of legislation saying we can go after these people, and we can penalize heavily those who engage in fraudulent behavior. So I say to myself, why is it taking us so long to do this? As I mentioned before, in 1981 we went looking for expert testimony to describe how easy it is to rip off the system. We called upon a physician who had an impeccable record, so to speak. He not only was a prominent physician, he was also a convicted felon. He came and testified before our Aging committee and said it was so simple. He was astonished it was so simple. He could not believe they actually reimbursed him for things which he never provided."

We sat back in astonishment. Guess what? Madam President, 13 years later he is back out there doing it again. He got reinstated, and he was just recently arrested and charged with fraud and more felonies. He is now being held on \$2 million bail.

We can stand here and wait and raise points of order and say it does not belong here, it does not belong on appropriations bills, it does not belong on Health and Human Services appropriations, it does not belong on the crime bill; it belongs on health care reform—but we do not have a health care reform bill. In the meantime, the losers are the American taxpayers.

Madam President, I hope at some point this evening we will have a chance to either vote on this measure up or down. If a point of order is raised, then we will vote on the point of order. But I hope my colleagues would see, not the wisdom, but just the practicality just the plain common sense of doing something to combat fraud. Which is not to say it is a panacea—that if we pass the legislation, we will save \$100 billion. We will never catch all the fraud. But if we got 10 percent or 20 percent or a third or even 50 percent, that would be \$50 billion we could use to help cover the people who are currently going uninsured.

We have 37 million people who have no insurance. We want to cover them. We could do that if we had mechanisms in place that would cut down on the kinds of outlandish, overt, preposterous schemes that are inflicted upon

us day after day. And we sit back here and say we have these technical provisions here. It may violate the jurisdiction of the Finance Committee. It may trespass upon the sensibilities of the House Ways and Means Committee. Judiciary really has a piece of the jurisdictional action here in both Houses. And we bounce this ball back and forth, back and forth. The American people look at us and say, "What are they doing? What in the world are they doing? Fiddling, while Medicaid and Medicare burn up with higher and higher costs. And private health insurance continues to escalate to the point where employers are canceling their policies for their employees, throwing more and more of them into the rolls of the uninsured." But we sit here or have extended quorums, waiting for someone to raise a technical point of order saying: We cannot do it this year. Next year we will be back and we will be out another \$100 billion.

Madam President, I see there are others on the floor who perhaps wish to seek recognition and I now yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

AMENDMENT NO. 2595 TO AMENDMENT NO. 2594  
(Purpose: To disqualify Members of Congress from participating in the Federal Employee Health Benefits Program and chapter 89 of title 5, United States Code.)

Mr. WOFFORD. Madam President, I would like to introduce a second-degree amendment and send it to the desk, to be added at the end of Senator COHEN's amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:  
The Senator from Pennsylvania [Mr. WOFFORD] proposes an amendment numbered 2595 to amendment No. 2594.

The amendment is as follows:

At the end of the pending amendment, add the following new section:

**SEC. . DISQUALIFICATION OF MEMBERS OF CONGRESS FROM PARTICIPATING IN THE FEDERAL EMPLOYEE HEALTH BENEFITS PROGRAM.**

(a) FINDINGS.—The Congress finds that—

(1) the Congress has failed to enact legislation that extends health insurance to all Americans and reduces inflation in health care costs;

(2) Members of Congress may obtain health insurance through the Federal Employees Health Benefits Program, which provides Members of Congress with guaranteed and affordable private health insurance, choice of health plans and choice of doctor, and no exclusions for preexisting medical conditions; and

(3) Members of Congress currently receive on average a 72 percent contribution of their health insurance premiums from their employer, the taxpayers.

(b) PURPOSE.—The purpose of this section is to provide that Members of Congress shall not obtain taxpayer-financed health insurance under the favorable conditions established through the Federal Employees Health Benefits Program unless Congress en-

acts health reform legislation that gives the American people the type of affordable, guaranteed health insurance that Members of Congress have provided for themselves.

(C) LIMITATION ON FEDERAL EMPLOYEE HEALTH BENEFITS PLAN COVERAGE FOR MEMBERS OF CONGRESS.—Effective on January 1, 1995.—

(1) the Office of Personnel Management shall—

(A) terminate the enrollment of any Member of Congress in a health benefits plan under chapter 89 of title 5, United States Code; and

(B) prohibit the original enrollment, re-enrollment, or change of enrollment of any Member of Congress in such a plan; and

(2) The Secretary of the Senate and the Clerk of the House of Representatives shall cease making applicable employee withholdings and Government contributions under section 8906 of title 5, United States Code, for any Member of Congress.

(d) CONTINUED COVERAGE.—A Member of Congress who is enrolled in a health benefits plan under chapter 89 of title 5, United States Code, on December 31, 1994, may receive continued coverage under section 8905a of such title.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania has the floor.

Mr. COHEN. I believe he lost the floor in sending his amendment to the desk.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. I thank the Chair.

Madam President, I think this is an example of what is wrong with this system. Here we have pending an amendment which I was told was going to be either voted upon, in the way of a point of order being lodged against it, or accepted. Now the Senator from Pennsylvania has introduced a health care amendment which, if not so designed, will, in fact, result in killing any vote on something that he and everybody else ought to be in favor of. So I suppose at this particular point we can take the rest of the evening to talk about another health care bill. We have lots of them. We have the mainstream health care proposal that we can introduce this evening. We have Senator DOLE's health care proposal. We have Senator GRAMM's health care proposal. All of those can be debated. But this particular amendment now being attached to the amendment addressing fraud is really going to, for all practical purposes, end the debate for this evening and perhaps into the rest of tomorrow and beyond.

I do not question the motivation of the Senator from Pennsylvania. I know he has felt strongly about treating Members of Congress the same as the public is treated with respect to its health care. But I might respectfully suggest that this is going to result in "no" vote coming on the health care fraud amendment, which is supported by everybody.

So I think it ought to be known to all the people who are watching and all the people who are engaged in their

races, that while we had an opportunity to talk about eliminating fraud that is costing the American people \$100 billion a year, in all likelihood that is not going to take place now as a result of the Senator's offering his amendment to this particular piece of legislation.

I do not believe that was his intent. That is the result. Once again, this Chamber will be deprived of an opportunity to vote in favor of something that everyone agrees with and we will, instead, take up the rest of the evening and perhaps tomorrow debating health care reform, the proposal of the Senator from Pennsylvania. So I must say I regret he has chosen to attach his amendment to the pending amendment. It is certainly within his right. But the ultimate consequence is while Members at least would have an opportunity to vote on reforming our fraudulent system now, the health care fraud provisions which I believe would have been accepted by an overwhelming if not unanimous vote of the U.S. Senate, we will no longer have a chance to do that.

I regret that he has chosen to proceed with his amendment on this one. He has a perfect right to do that. I certainly will carry this message to whoever will listen, whether in Maine, Pennsylvania, or California, that once again Congress has ducked the opportunity to eliminate fraudulent practices which are robbing us blind and bleeding us dry.

We will not have an opportunity to vote on that for the balance of this session, because there are many people on this side of the aisle who have their own health care proposals. I was one of those who worked with the Senator from Pennsylvania—who became part of the mainstream coalition—who was seeking a way to come up with health care legislation that all of us could support or most of us could support, we were not able to do that. We were not able to do that. We were not able to do that. But I must say there was no disagreement on this amendment and I think it is regrettable that we will not have a chance to do that.

With that, Madam Chairman, I will yield the floor to the Senator from Pennsylvania. He can proceed as he sees fit. But I must say I am disappointed that we will not have a chance to vote on the antifraud provisions that are contained in my amendment.

(Mr. WOFFORD addressed the Chair.)

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. WOFFORD. I thank the Senator from Maine. I look forward to voting in support of his amendment. I trust we will move to his amendment. It will have my full and strong support.

I am introducing this second-degree amendment for the same reason that he took this opportunity to present his

amendment; namely, that the opportunities for action are running out and I would like to put forth the case for my amendment. We will look at the procedure as we go forward. I want to put this amendment forth clearly and strongly to my colleagues and to the country, and I look forward in due course to supporting Senator COHEN'S amendment with enthusiasm.

Mr. President, like most Americans, I am angry with Washington's petty partisanship and special interest gridlock. I'm not interested in the debate over who killed health reform this year. This issue was brought to life by people and killed by politics. Special interests spent it to death, and Congress talked it to death.

But I know health care will rise again. Because for families and companies who are paying more and getting less each year, the need for action will not fade away. The need will only grow.

Luckily, there are many Democrats and Republicans of good will, including the Senator from Maine, and the majority leader from Maine, who share the goal of affordable private health insurance for all Americans, and have made their own serious effort to reach it. I hope that we will pick up those efforts right where we left off when Congress returns.

For the past 2 years, I have been reaching out across the aisle, working with colleagues in both parties to craft a commonsense health reform bill that would provide all Americans with the kind of affordable coverage and choice of private health plans that Members of Congress now have. Not Government-run health care, but private health insurance choices, built on what people like best about our current health system.

I have talked about how that first inadequate step that we took back in 1957 on the long march toward full civil rights for black Americans is an analogy for the kind of first step we could take this year toward affordable private health coverage for all Americans. Today, more than ever, I am determined to find the way to move forward. Not only here in Congress, but in States and communities across the country. Because health reform has to go forward, with or without Washington.

On this front, here in Congress, I have repeatedly said, on this floor and around the country, that it is wrong for Members of Congress to block other Americans from having the same kind of affordable coverage and choice of private plans that the taxpayers provide to Members of Congress. So now it is time for Members of Congress to support the plan they live under, or live under the plan they support.

Today I am introducing an amendment that turns that commonsense proposition into a reality. I know it

will not be popular in these Chambers. I was not popular when I introduced the bill to end the free care that Members used to get from the attending physician. But we did it, because it was the right thing to do.

Under my proposal, Members of Congress will lose their taxpayer-financed health care benefits effective January 1, 1995.

Private citizens who lose their health insurance when they lose a job can get something called COBRA coverage that allows them to keep their current coverage for up to 18 months by paying for it themselves. Members of Congress will be in the same boat under this proposal. 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 cost of their health insurance, as I have been doing for the last few months myself.

Translated into dollars and cents this amendment means that for Members of Congress who choose the standard Blue Cross family coverage, the taxpayers will no longer pay the monthly \$303.75 employer contribution. Instead of only \$101.25, Members will have to pay the full \$405 premium themselves. After 18 months, if Congress still has not been able to agree on real reform, Members of Congress will be dropped from the Federal employee plan entirely. They will no longer enjoy the choices, the cost savings, and the consumer protections that come from being part of a large group plan. They will have to either purchase their own insurance with no help from their employer or go without.

It may be a hardship. I know. That is exactly what happens to million of other Americans every single day; no more, no less.

If Members of Congress want more time to study, as some claim, let us study what it is like to be a middle-class American, caught up in the health care mess. Let us find out just how difficult it is to pay for health insurance if your employer does not contribute a fair share. Let us experience what it is like to find a decent health plan without the help of our employer. Because that is the worry facing more and more Americans every day.

There are Members of Congress who say that doing nothing on health care will not hurt them a bit; who have celebrated their success at blocking action. I hope this amendment will help in some small way to show them that there is nothing to celebrate. Not for the American people, not for us.

Doing nothing about that may not hurt some special interests, but it sure hurts the public interest. Health care delay is health care denied.

When the Senate floor debate began this past summer, I quoted Abraham Lincoln who said "We cannot escape history. We of this Congress and this administration will be remembered in

spite of ourselves." But whether we will together rise to the occasion; or fall, divided and defeated, remains very much in doubt. That is what I said then.

I would like to believe that in the days and nights ahead we will be guided as Lincoln put it, "by the better angels of our natures," that those watching us will witness self-government, not civil war. Because this debate is not about politics. It is about people's lives. That is what I said then.

Well now, one thing is for sure. This Congress will be remembered. Not for being angels, though.

Mr. President, I hoped I would never have to introduce this amendment. I did not come to the Senate to take away the health benefits of Members of Congress. I came to help see to it that the American people would finally be guaranteed the same kind of benefits for themselves that we have: a choice of affordable private health insurance plans. But until we act, American families will continue to have a health insurance maze in which the insurance companies make all the rules, while people fall through the loopholes and get caught in the fine print.

Until we act, health care costs will continue to rise out of control, putting an ever greater strain on businesses and devouring an ever-greater share of Federal, State, and local tax dollars, and family budgets.

Until we act, Americans will continue to suffer and die from diseases that could have been prevented or cured, if only they had been treated sooner.

Until we act, America will keep the 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 are sick.

And until a new Congress does stand up to special interests, and rises above partisan interests to turn that right to see a doctor when you are sick into a reality, we should not be taking from the American people what we cannot guarantee for the American people.

Madam President, I would like to ask unanimous consent to add Senator LAUTENBERG as a cosponsor.

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

Mr. WOFFORD. I yield to Senator DOMENICI.

(Mr. DOMENICI addressed the Chair.)  
The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Could I just discuss with you for a moment what we have been discussing here?

Senator BOREN and I have an amendment that we want to offer which is essentially the sum total of the recommendations of the Joint Committee on Congressional Reform encapsulated in one piece of legislation, and we do not find any other way to offer this

amendment before we close the session other than to offer it as an amendment in disagreement on this bill, and to do that, I understand you are not necessarily in any hurry to have your amendment reach the point of disposition, and I understand our friend from Maine has no objection to us proceeding to consider this amendment that I have described, so with that in mind—

Mr. COHEN. Reserving the right to object, but am I correct that the Senator from Pennsylvania would have every opportunity to offer his amendment to any of the amendments in disagreement that come before the Senate on the District of Columbia appropriations bill?

Mr. DOMENICI. We would have to ask the Chair. I understand there are still amendments in disagreement available for further amending?

The PRESIDING OFFICER. That's correct.

Mr. DOMENICI. Parliamentary inquiry. Are there not other amendments in disagreement, aside from the one that Senator COHEN has amended?

The PRESIDING OFFICER. The Senator is correct.

Mr. COHEN. I simply wanted to point out to my friends from Pennsylvania and New Mexico that the Senator from Pennsylvania has now introduced a controversial amendment to a non-controversial amendment dealing with health care fraud, and as a result of that particular process, thereby jeopardized the vote that I thought we were about to have momentarily on health care fraud.

So now we have something that virtually everybody agreed to and, upon being amended with a controversial amendment, that will take perhaps several hours, if not days, can now be opened up by others who have their own health care proposals.

So I would appeal to my colleague from Pennsylvania that this was not the only opportunity for the Senator to offer an amendment. The Senator is within his rights. But I respectfully suggest to him that he has at least jeopardized the opportunity for the Senate to go on record to try to persuade our House colleagues that we ought to pass health care fraud provisions now as opposed to encumbering that with a very controversial proposal of the Senator's which could in fact be attached to any of the other amendments in disagreement on the D.C. appropriations bill. So I would hope that if we agree to set aside our amendments, the Senator might take that into consideration.

Mr. WOFFORD. Madam President, I am fully agreeable to what Senator DOMENICI has proposed in terms of his moving forward now. I look forward to talking with the Senator from Maine about the procedure. My case is a simple one. It has been made. I have no

reason to think there will be a long debate on the amendment, whether it is controversial or not. I look forward very much to supporting the amendment of the Senator from Maine.

Mr. BYRD addressed the Chair.  
The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Who has the floor?  
The PRESIDING OFFICER. The Senator from Pennsylvania had the floor.

Mr. BYRD. Will the Senator yield?  
Mr. WOFFORD. I yield the floor to the President pro tempore.

Mr. BYRD. Will the Senator yield without losing his right to the floor while I might make one more parliamentary inquiry and help to propound the request, without losing his right?

Mr. WOFFORD. I do.  
Mr. BYRD. Madam President, is there an amendment pending to the first amendment in disagreement, the amendment by Mr. GRAMM?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. Is there an amendment pending to the second amendment in disagreement?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. And is the amendment pending to the second amendment in disagreement the amendment by Mr. WOFFORD?

The PRESIDING OFFICER. The amendment by the Senator from Maine, as amended by the Senator from Pennsylvania, is the amendment to the second amendment in disagreement.

Mr. BYRD. I thank the Chair. Is there any amendment pending to the third amendment in disagreement?

The PRESIDING OFFICER. No, there is no amendment pending to the third amendment in disagreement that is Senate amendment numbered 12.

Mr. BYRD. Are there eight amendments in disagreement between the two Houses?

The PRESIDING OFFICER. That is correct.

Mr. BYRD. I ask unanimous consent that the distinguished Senator from New Mexico may be permitted to offer an amendment at this point to the third amendment in disagreement, and only for the purpose of offering the amendment, but that such action not suspend action on the previous two amendments in disagreement.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. The purpose being only to let the Senator offer his amendment. There are eight amendments in disagreement. At some point he will offer his amendment to one of those amendments. He wants to offer the amendment tonight, not debate it but just have it in line when the other amendments are disposed of.

Mr. DOMENICI. Reserving the right to object, and I greatly appreciate the

distinguished chairman of the Appropriations Committee offering the unanimous-consent proposal in my behalf, let me say to Senator BYRD I thought I had already worked out with the Senator from Pennsylvania, by talking to his staff at length, and Senator COHEN, I had already worked out an arrangement where a consent would be granted that I offer the amendment and that theirs be set aside temporarily. So not only would the amendment of the Senator from New Mexico be pending, be in order but it would be pending. I think they would agree to that, and I would like to propound that unanimous consent in lieu of the Senator's.

Mr. BYRD. Very well. That is agreeable with me. I did not realize they were willing.

Mr. COHEN. Reserving the right to object—

Mr. WOFFORD. That is correct.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. I hope that the Senator from West Virginia would withhold his unanimous-consent request, as well as the Senator from New Mexico, for a moment.

Mr. BYRD. Madam President, I withdraw my request.

Mr. DOMENICI. And I withhold mine.

Mr. COHEN. I wish to have an opportunity to suggest the absence of a quorum. I think we may be able to resolve this issue so we will not run into a conflict with the proposal.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. BYRD. Madam President, I ask unanimous consent that the pending amendments be temporarily laid aside for the purpose only of allowing the Senator from New Mexico [Mr. DOMENICI] to call up an amendment and Mr. BOREN to call up an amendment to the Domenici amendment; that both amendments be considered as read, printed, and no debate thereon occur tonight.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT IN DISAGREEMENT TO THE SENATE AMENDMENT NUMBERED 12

The PRESIDING OFFICER. The pending question is Senate amendment 12, which the clerk will report.

The bill clerk read as follows:

*Resolved.* That the House recede from its disagreement to the amendment of the Senate numbered 12 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: "forecast which shall be supported and accompanied by cash

forecasts for the general fund and each of the District government's other funds other than the capital projects fund and trust and agency funds."

AMENDMENT NO. 2596 TO AMENDMENT IN DISAGREEMENT TO THE SENATE AMENDMENT NUMBERED 12.

(Purpose: To improve the operations of the legislative branch of the Federal Government, and for other purposes)

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

I think a unanimous consent agreement has already been granted that it be considered as read.

The PRESIDING OFFICER. The clerk will report the amendment by number.

The bill clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] proposes an amendment numbered 2596 to the amendment in disagreement to the Senate amendment numbered 12.

The text of the amendment is printed in today's RECORD under "Amendments Submitted."

AMENDMENT NO. 2597 TO AMENDMENT NO. 2596

(Purpose: To improve the operations of the legislative branch of the Federal Government, and for other purposes)

Mr. BOREN. Madam President, I send an amendment in the nature of a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows.

The Senator from Oklahoma [Mr. BOREN] proposes an amendment numbered 2597 to amendment numbered 2596.

The text of the amendment is printed in today's RECORD under "Amendments Submitted."

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, I thank Senator BYRD for his assistance here tonight and I thank Senator WOFFORD and Senator COHEN for their consideration. I apologize for having made their evening a little longer than it should have been.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

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

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

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

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

GRAMM AMENDMENT TO THE THIRD AMENDMENT IN DISAGREEMENT

Mr. DURENBERGER. Mr. President, I rise to explain why I will oppose the amendment offered by my distinguished colleague from Texas, Senator GRAMM.

Last August, I cast certain procedural votes on the crime bill con-

ference report that were designed to allow the consideration of 10 different Republican amendments. This did not mean that I agreed with the substance of these amendments; it meant only that I believed more bipartisan input should be injected into the process.

Republicans did not get a chance to offer these amendments during consideration of the conference report, so the 10 proposals have returned as 1 consolidated amendment to this appropriations bill. I must go on record opposed to this amendment for three reasons.

First, this amendment would strike a provision—the Family Unity Demonstration Project Act—which is based on a bill I introduced last year. This bill would authorize demonstration projects that would allow nonviolent incarcerated mothers to serve their sentences in supervised community programs with their children.

Children who are separated from incarcerated parents have a high risk of developing social and emotional problems, of dropping out of school, and of becoming criminals themselves. Family unity demonstration projects will minimize the trauma to children and place them in a stable, caring, healthy environment. The parents will participate in parenting classes, substance abuse treatment, and educational and vocational training.

In addition to being more cost-effective than incarceration and saving the costs of foster care placement, these programs produce results. In communities that have tried this approach, the participants have been much less likely to repeat their crimes and more likely to emerge as better parents and productive members of society. Unlike many of the provisions in the crime bill, I believe that this proposal will be an effective tool in the war on crime.

Second, I am opposed to this amendment because of its expansion of mandatory minimum penalties. The consensus in the judicial community is that mandatory minimum sentences are a terrible policy. In many cases, they have swelled our prison population with people who aren't a threat to the community and who would probably do better in an alternative to incarceration.

Mandatory minimum sentences have not succeeded in reducing crime, and in many cases have reduced the prospects for rehabilitation. Our increasing use of incarceration for first-time, non-violent offenders has done little more than create more hardened criminals at the taxpayer's expense.

Few people have more experience dealing with criminals than judges. But mandatory minimums take away the ability of judges to do their job—to make the punishment fit the crime. They do not allow judges to take factors into account like the offender's age, role in the offense, or prospects for rehabilitation.

Finally, I am concerned that this amendment would allow less flexibility for States who apply for prison funding. The crime problem is intensely local; I believe that States are more capable than Washington politicians to craft their own sentencing policy and determine the most effective use of prison dollars.

For all of these reasons, I intend to vote against this amendment.

#### MORNING BUSINESS

Mr. KOHL. Madam President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak therein for up to 5 minutes each.

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

#### IS CONGRESS IRRESPONSIBLE? YOU BE THE JUDGE OF THAT

Mr. HELMS. Mr. President, anyone even remotely familiar with the U.S. Constitution knows that no President can spend a dime of Federal tax money that has not first been authorized and appropriated by Congress—both the House of Representatives and the U.S. Senate.

So when you hear a politician or an editor or a commentator declare that "Reagan ran up the Federal debt" or that "Bush ran it up," bear in mind that it was, and is, the constitutional duty and responsibility of Congress to control Federal spending. Congress has failed miserably in that task for about 50 years.

The fiscal irresponsibility of Congress has created a Federal debt which stood at \$4,670,105,589,039.37 as of the close of business Tuesday, September 27. Averaged out, every man, woman, and child in America owes a share of this massive debt, and that per capita share is \$17,912.96.

#### VERY SPECIAL ARTS TURNS 20

Mr. DOLE. Mr. President, I rise today in honor of the 20th anniversary of Very Special Arts.

Very Special Arts was founded in 1974 by Jean Kennedy Smith, today our distinguished Ambassador to Ireland, as an affiliate of the John F. Kennedy Center for the Performing Arts. Its mission is unique and important—to promote awareness of the educational, cultural, and personal benefits of the arts for people with disabilities. By sponsoring programs in creative writing, dance, drama, music, and the visual arts, Very Special Arts helps provide people with disabilities the skills they need to be full participants in the arts.

Mr. President, Very Special Arts sends the message that the arts are for all people. Today, it has programs in

all 50 States and the District of Columbia, and in more than 55 countries worldwide. It is among the largest and most diverse international organizations serving people with disabilities.

#### NOTABLE ACCOMPLISHMENTS

Over the last 20 years, Very Special Arts has sponsored many groundbreaking programs at the State, national, and international levels. I would like to highlight just a few of its recent achievements.

In April 1991, in a joint project with the Bureau of Indian Affairs, it hosted the first National Native American Very Special Arts Festival in Santa Fe, NM. This 2-day festival showcased the artistic accomplishments of native American students from many different tribal groups. Since then, the festival has reached more than 3,000 students nationwide.

In 1992, Very Special Arts issued a Call for Art, inviting people of all ages to submit artwork for a U.S. Capitol 200th Anniversary Art Exhibition Project. This project was designed to challenge artists to use their imaginations to explore the history of one of our Nation's most important landmarks. Last fall artists from all 50 States were represented in an exhibit in the Rotunda of the Cannon House Office Building.

Start with the Arts is an instructional program for young children ages 4 to 6 to help educators and parents create meaningful learning experiences in all the arts—visual arts, creative movement, creative drama, and music. This program gives these young children an early opportunity to excel.

In May of this year, Very Special Arts hosted its second international Very Special Arts Festival in Brussels, Belgium. Over 40 States and 75 countries sent delegations to Brussels for performances, workshops, and other cultural exchanges, and more than 1,000 individuals of all ages with and without disabilities took part in this exciting week-long celebration of the arts.

Other programs have included "The Young Playwrights Program," "New Vision Dance Project," "Young Soloists Award," "The Yamagata International Visual Arts Program," and "Arts for Children in Hospitals." The list goes on and on.

The nonprofit Very Special Arts operates two galleries—one in downtown Washington, DC, and a new sister gallery in nearby Georgetown. These galleries play an important role in boosting self-esteem and professional careers. Proceeds from sales support exhibitions and Very Special Arts programs. World-renowned artists such as Hiro Yamagata, Robert Rauschenberg, and Frank Stella help Very Special Arts through unique print and poster editions displayed in the gallery.

#### SERVICE TO KANSAS

In my own home State of Kansas, Very Special Arts recently launched a

new initiative involving one of the most important groups of people in this country—our veterans. In August, Very Special Arts Kansas began a drama program for the veterans of the day treatment center at the Colmery O'Neil VA Medical Center in Topeka. Led by Chuck Bland, a drama therapist who is also a vietnam veteran, over 50 veterans between 28 and 80 will create and perform a historical play. The play will be later performed at other sites in Kansas with a final performance for the friends and families of the veterans.

#### A CONTINUING LEADER

Mr. President, no doubt about it, for 20 years Very Special Arts has been a leader. I congratulate them for their service and commend them for their continuing commitment to excellence and their dedication to providing opportunities for people with disabilities to enjoy meaningful experiences through the arts.

#### DO NOT RAISE INTEREST RATES

Mr. DECONCINI. Mr. President, yesterday the Federal Reserve decided not to raise interest rates. I congratulate them. The last thing the American economy needs is higher interest rates.

I am concerned, however, that Chairman Greenspan has been given unlimited authority to raise interest rates unilaterally between now and November 15. I urge Chairman Greenspan not to utilize that authority and give the economic recovery a little breathing room.

I ask unanimous consent that a copy of my letter of today's date to Chairman Greenspan be included in the RECORD at this point.

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

U.S. SENATE,

Washington, DC, September 28, 1994.

Hon. ALAN GREENSPAN,  
Chairman, Federal Reserve Board, Washington, DC.

DEAR CHAIRMAN GREENSPAN: I want to congratulate you on yesterday's decision by the Federal Reserve not to raise interest rates. At the same time, I want to urge you not to use your authority to unilaterally raise rates between now and November 15th.

The recovery of the American economy is delicate at best. It simply cannot tolerate any additional interest rate increases and continue to grow.

Again, I applaud the Federal Reserve's restraint and urge you to continue it.

Sincerely,

DENNIS DECONCINI,  
U.S. Senator.

#### NEW EXHIBITION AT THE NATIONAL GALLERY OF ART— "ROBERT FRANK: MOVING OUT"

Mr. KENNEDY. Mr. President, it is a privilege to take this opportunity to commend the Polaroid Corp. of Cambridge, MA, for its sponsorship, along

with the Lannan Foundation, of the exhibition about to open this weekend at the National Gallery of Art, entitled, "Robert Frank: Moving Out."

The exhibition opens on Sunday, October 2, and it celebrates the life and work of Robert Frank, one of America's greatest living photographers. It marks the first time that the gallery has held an exhibition commemorating the work of a living photographer.

Frank's highly stylized and dramatic images portray a wide range of American experience and have had a lasting influence on American photography.

It is fitting that the Polaroid Corp. is participating in the sponsorship of this exhibition. For many years, Polaroid has been a household name symbolizing excellence in photography. Over the years, Polaroid has worked closely with America's great photographers, and those artists have worked closely with Polaroid scientists, helping to generate new advances in the art and technology of photography. As a result, Polaroid is renowned as a leader in such diverse fields as computer imaging, medical diagnostics, and fine arts restoration, in addition to commercial and popular photography.

Because of this exhibition, the powerful photography of Robert Frank will be seen by thousands of individuals who otherwise would not have had the opportunity. The exhibition will be at the National Gallery in Washington until December. It will then travel to Japan, Switzerland, and the Netherlands, and will return in 1996 to the Whitney Museum of American Art in New York City and then to the Lannan Foundation in Los Angeles. I know that the exhibition will be acclaimed in the Nation's Capital and in all the other places where it travels, and I congratulate all those who are a part of it.

#### JAMIE L. WHITTEN FEDERAL BUILDING

Mr. COCHRAN. Mr. President, I support H.R. 4576 which names the U.S. Department of Agriculture building at the northeast corner of 14th Street and Independence Avenue, in Washington, D.C., as the "Jamie L. Whitten Federal Building." This is a very appropriate honor for Representative WHITTEN.

Representatives WHITTEN is serving his 27th consecutive term in the House of Representatives, representing with distinction the First Congressional District of Mississippi.

As a leader in the shaping of our Nation's agricultural policy, Representative WHITTEN helped develop and fund numerous farm programs that have enriched the lives of many Americans. He has also placed a great deal of emphasis on research programs, which have enabled our farmers to be the most productive and efficient in the world. These programs will enable American

agriculture to meet challenges in the next century.

During his tenure in office, Representative WHITTEN has often been referred to as the Permanent Secretary of Agriculture. Therefore, it is very appropriate that the Federal Agricultural Headquarters Building be named in his honor.

#### CONFERENCE REPORT ON REAUTHORIZING THE ELEMENTARY AND SECONDARY EDUCATION ACT

Mrs. FEINSTEIN. Mr. President, I would like to congratulate the House and Senate education committee conferees for including several important changes to the Elementary and Secondary Education Act [ESEA] in their conference report. As I know from having spoken at the conference last Friday, moving this legislation forward has been a tremendously difficult—but essential—achievement.

After almost 2 weeks of continuous debate, the House and Senate education conferees completed deliberation on H.R. 6 last night. This bill reauthorizes the Elementary and Secondary Education Act, which contains many of the most important Federal education programs for students in grades K-12—including Chapter 1, a \$6.7 billion program to help educate poor and disadvantaged children that will affect over 90 percent of school districts in the Nation.

With over 5 million students, California public schools desperately need effective Federal education programs to provide specialized services and address the needs of an extremely diverse student body. While I am not a member of the Senate Education Subcommittee or the conference, I participated in the reauthorization process to ensure that the new legislation would include improvements that are important to California. During the last 2 years, I have spoken with my colleagues about California's educational concerns, debated education issues on the Senate floor, introduced my own related legislation, and suggested several amendments to the reauthorizing legislation.

As a result of my efforts and others', the conference report will include several issues that I believe are essential:

**Gun-Free Schools:** The gun-free schools provision requires States and school districts who receive Federal funds to establish mandatory 1-year expulsion policies for students who bring guns to school. This measure will strengthen California's current expulsion policy and make schools throughout the country safe from the threat of violence. As I stated when I appeared in front of the conferees, it is time to stop making excuses for children who bring guns to school. I believe that this measure, which I co-authored with Senator DORGAN, is one of the most im-

portant steps that we can take to create an environment where children can actually learn.

**Improved Chapter 1 Formula:** Under the new formula, California's share of Chapter 1 funds will grow significantly. In fiscal year 1995, the reauthorized Chapter 1 formula will yield \$729 million for California—\$35 million more than the State will receive this year. In fiscal year 1996, the formula will begin to target more funds to areas with large numbers of poor children. In fiscal year 1997, the new formula will begin using updated poverty data. Because of these changes, California's allocation will grow at a higher rate each year.

Despite the delay until 1997, the effect of using regularly updated poverty data in the Chapter 1 formula will have a tremendous benefit to California. Between 1980 and 1990, California's share of poor children increased 38 percent without any change in the State's Chapter 1 allocation. To address this problem, I have pressed this issue with my colleagues and introduced legislation to enable the Census Bureau to produce more timely information. Next year, I will try to win passage of poverty data legislation to prevent the use of outdated information in all Federal funding formulas.

**Increased Funding Level for Immigrant Education:** In the conference report, the authorization level for the Emergency Immigrant Education Act will be increased from its current \$40 million level to \$100 million—a 150-percent increase. The Emergency Immigrant Education Act provides supplementary funds to school districts with large influxes of immigrant children, and in fiscal year 1994 California received \$15 million—or 40 percent of funds appropriated—to help educate the Nation's largest population of immigrant students. During the last 2 years, I have helped increase the appropriations for this program from \$29 million in fiscal year 1993 to \$50 million in fiscal year 1995—a 72-percent increase over the last two years. A further increase in the authorization level will enable Congress to continue appropriating more funds for immigrant education in future years.

While the Emergency Immigrant Education program does not address the enormous costs of educating illegal immigrant children, it does provide an important resource to States like California for educating the children of legal immigrants who have recently arrived in this country. I also intend to continue to press for fair compensation to the State for the costs of educating immigrant children, both legal and illegal.

The reauthorization of the Elementary and Secondary Education Act is an important piece of legislation, and the conferees have addressed House-Senate differences with admirable fairness. Once again, I congratulate them

on their achievement and look forward to Senate consideration of the report after the House has given its approval.

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

#### MESSAGES FROM THE HOUSE

At 11:26 a.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. 3392. An act to amend the Safe Drinking Water Act to assure the safety of public water systems.

The message also announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 783. An act to amend the Fair Credit Reporting Act, and for other purposes.

At 11:56 a.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. 2461. An act to amend the Federal Property and Administrative Services Act of 1949 to authorize the transfer to States of surplus personal property for donation to nonprofit providers of necessities to impoverished families and individuals.

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. 4556) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1995, and for other purposes.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 4569) to extend and make amendments to the President John F. Kennedy Assassination Records Collection Act of 1992.

The message also announced that the Speaker makes the following modification in the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1569) to amend the Public Health

Service Act to establish, reauthorize and revise provisions to improve the health of individuals from disadvantaged backgrounds, and for other purposes; and appoints as additional conferees from the Committee on Ways and Means for consideration of titles VI and VII of the Senate bill, and modifications committed to conference: Mr. GIBBONS, Mr. FORD of Tennessee, and Mr. ARCHER.

#### ENROLLED BILL SIGNED

The message further announced that the Speaker has signed the following enrolled bill:

H.R. 4624. An act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1995, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore [Mr. BYRD].

At 4:42 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 3839. An act to designate the United States Post Office located at 220 South 40th Avenue in Hattiesburg, Mississippi, as the "Roy M. Wheat Post Office."

H.R. 4177. An act to designate the Post Office building located at 1601 Highway 35 in Middletown, New Jersey, as the "Candace White United States Post Office."

H.R. 4191. An act to designate the United States Post Office located at 9630 Estate Thomas in Saint Thomas, Virgin Islands, as the "Aubrey C. Otley United States Post Office."

H.R. 4554. 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.

H.R. 4569. An act to extend and make amendments to the President John F. Kennedy Assassination Records Collection Act of 1992.

S. 716. 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.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate.

H.R. 4476. An act to provide for the development of a plan and a management review of the National Park System and to reform the process by which areas are considered for addition to the National Park System, and for other purposes.

H.R. 4779. An act to amend the Solid Waste Disposal Act to authorize local governments and Governors to restrict receipt of out-of-State municipal solid waste, and for other purposes.

H.R. 4924. An act to assist in the conservation of rhinoceros and tigers by supporting and providing financial resources for the conservation programs of nations whose ac-

tivities directly or indirectly affect rhinoceros and tiger populations, and of the CITES Secretariat.

#### ENROLLED BILL SIGNED

At 6:01 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of the reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 4606. 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.

#### MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3392. An act to amend the Safe Drinking Water Act to assure the safety of public water systems.

H.R. 4779. An act to amend the Solid Waste Disposal Act to authorize local governments and Governors to restrict receipt out-of-State municipal solid waste, and for other purposes.

The following bill was read the first and second times by unanimous consent, and ordered placed on the calendar:

H.R. 4924. An act to assist in the conservation of rhinoceros and tigers by supporting and providing financial resources for the conservation programs of nations whose activities directly or indirectly affect rhinoceros and tiger populations, and of the CITES Secretariat.

#### ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that she had presented to the President of the United States, the following enrolled bills:

On September 26, 1994:

S. 1406. An act to amend the Plant Variety Protection Act to make such Act consistent with the International Convention for the Protection of New Varieties of Plants of March 19, 1991, to which the United States is a signatory, and for other purposes.

S. 1703. An act to expand the boundaries of the Piscataway National Park, and for other purposes.

On September 28, 1994:

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.

#### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3353. A communication from the Secretary of Agriculture, transmitting, a draft

of proposed legislation to amend the Consolidated Farm and Rural Development Act to modify the program of the Farmers Home Administration to assist beginning farmers and ranchers; to the Committee on Agriculture, Nutrition and Forestry.

EC-3354. A communication from the Secretary of Agriculture, transmitting, a draft of proposed legislation entitled "The Pathogen Reduction Act of 1994"; to the Committee on Agriculture, Nutrition and Forestry.

EC-3355. A communication from the Comptroller of the Department of Defense, transmitting, pursuant to law, notice relative to the incurrence of obligations in excess of available appropriations; to the Committee on Appropriations.

EC-3356. A communication from the General Counsel of the Navy, transmitting, a draft of proposed legislation to authorize the transfer of nine naval vessels to certain foreign countries; to the Committee on Armed Services.

EC-3357. A communication from the Acting Chairman of the Federal Deposit Insurance Corporation, transmitting, pursuant to law, the annual report for calendar year 1993; to the Committee on Banking, Housing, and Urban Affairs.

EC-3358. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the report of the Section 8 Rental Voucher and Rental Certificate Utilization Study; to the Committee on Banking, Housing, and Urban Affairs.

EC-3359. A communication from the Acting Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report to Congress on direct spending or receipts legislation within five days of enactment; to the Committee on the Budget.

#### REPORTS OF COMMITTEES

The following reports of committees were submitted:

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. 2330. A bill to amend title 38, United States Code, to provide that undiagnosed illnesses constitute diseases for purposes of entitlement of veterans to disability compensation for service-connected diseases, and for other purposes (Rept. No. 103-386).

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

H.R. 808. A bill for the relief of James B. Stanley.

H.R. 810. A bill for the relief of Elizabeth M. Hill.

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:

H.R. 1137. A bill to amend the Geothermal Steam Act of 1970 (30 U.S.C. 1001-1027), and for other purposes.

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute and an amendment to the title:

H.R. 4489. A bill to authorize appropriations to the National Aeronautics and Space Administration for human space flight, science, aeronautics, and technology, mission support, and Inspector General, and for other purposes.

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature

of a substitute and an amendment to the title:

S. Res. 136. A resolution to refer S. 1325 entitled "A bill for the relief of Horace Martin," to the Chief Judge of the United States Claims Court for a report thereon.

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

S. Res. 223. A resolution to refer S. 2188 entitled "A bill for the relief of the Pottawatomi Nation in Canada for the proportionate share of tribal funds and annuities under treaties between the Pottawatomi Nation and the United States, and for other purposes", to the Chief Judge of the United States Court of Federal Claims for a report on the bill.

S. Res. 258. A resolution to refer S. 974 entitled "A bill for the relief of Richard Kanehl of Mobile, Alabama," to the chief judge of the United States Court of Federal Claims for a report thereon.

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 825. A bill to amend title 28 of the United States Code to permit a foreign state to be subject to the jurisdiction of Federal or State courts in any case involving an act of international terrorism.

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute and an amendment to the title:

S. 927. A bill for the relief of Wade Bomar.

S. 1422. A bill to confer jurisdiction on the United States Claims Court with respect to land claims of Pueblo of Isleta Indian Tribe.

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 1537. A bill to amend the Stevenson-Wylder Technology Innovation Act of 1980.

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 1991. A bill to provide for the safety of journeyman boxers, and for other purposes.

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 2002. A bill to authorize appropriations for the National Railroad Passenger Corporation, and for other purposes.

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute and an amendment to the title:

S. 2101. A bill 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.

S. 2132. A bill to authorize appropriations to carry out the Federal Railroad Safety Act of 1970, and for other purposes.

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 2272. A bill to amend chapter 28 of title 35, United States Code, to provide a defense to patent infringement based on prior use by certain persons, and for other purposes.

S. 2341. A bill to amend chapter 30 of title 35, United States Code, to afford third parties an opportunity for greater participation in reexamination proceedings before the United States Patent and Trademark Office, and for other purposes.

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 2344. A bill to authorize appropriations for the National Science Foundation, and for other purposes.

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

S. 2372. A bill to reauthorize for three years the Commission on Civil Rights, and for other purposes.

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 2375. A bill to amend title 18, United States Code, to make clear a telecommunications carrier's duty to cooperate in the interception of communications for law enforcement purposes, and for other purposes.

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 2414. A bill to authorize the Secretary of Transportation to issue temporary certificates of documentation with appropriate endorsement for employment in the coastwise trade for the vessels *Idun Viking*, *Liv Viking*, and *Freja Viking*.

S. 2447. A bill to authorize a certificate of documentation for the vessel *Lady Hawk*.

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 2455. A bill to establish a system of licensing, reporting, and regulation for vessels of the United States fishing on the high seas.

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

S. 2457. A bill for the relief of Benchmark Rail Group, Inc.

#### EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary:

David H. Coar, of Illinois, to be United States District Judge for the Northern District of Illinois.

Robert J. Cindrich, of Pennsylvania, to be United States District Judge for the Western District of Pennsylvania.

David S. Tatel, of Maryland, to be United States Circuit Judge for the District of Columbia Circuit.

Catherine D. Perry, of Missouri, to be United States District Judge for the Eastern District of Missouri.

Paul E. Riley, of Illinois, to be United States District Judge for the Southern District of Illinois.

David F. Hamilton, of Indiana, to be United States District Judge for the Southern District of Indiana.

(The above nominations were reported with the recommendation that they be confirmed.)

#### 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. CAMPBELL (for himself and Mr. BROWN):

S. 2470. A bill entitled "Gilpin County, Colorado—B.L.M. Land Transfer Act of 1994"; to the Committee on Energy and Natural Resources.

By Mr. KOHL (for himself and Mr. COHEN):

S. 2471. A bill to authorize the Administrator of the Office of Juvenile Justice and Delinquency Prevention Programs to make grants to States and units of local government to assist in providing secure facilities for violent and chronic juvenile offenders; to the Committee on the Judiciary.

By Mr. LOTT:

S. 2472. A bill to require the Administrator of the Environmental Protection Agency to issue rules governing risk assessments, and for other purposes; to the Committee on Environment and Public Works.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MURKOWSKI (for himself, Mr. ROBB, Mr. BROWN, Mr. PELL, Mr. HELMS, and Mr. SIMON):

S. Res. 270. A resolution to express the sense of the Senate concerning U.S. relations with Taiwan; to the Committee on Foreign Relations.

By Mr. HATFIELD:

S. Res. 271. A resolution to express the sense of the Senate that the proposed Oregon Option project has the potential to improve intergovernmental service delivery and that the Federal Government should work cooperatively with the State and local governments of Oregon to fully implement the Oregon Option proposal; to the Committee on Governmental Affairs.

By Mr. MITCHELL (for himself and Mr. DOLE):

S. Res. 272. A resolution authorizing the taking of a photograph in the Chamber of the United States Senate; considered and agreed to.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CAMPBELL (for himself and Mr. BROWN):

S. 2470. A bill entitled "Gilpin County, Colorado—B.L.M. Land Transfer Act of 1994"; to the Committee on Energy and Natural Resources.

##### THE CENTRAL CITY AND BLACK HAWK LAND EXCHANGE ACT

• Mr. CAMPBELL. Mr. President, I am introducing legislation to exchange approximately 300 acres of fragmented Bureau of Land Management lands near Black Hawk, CO, for approximately 4,500 acres that will be added to Rocky Mountain National Park and to other Department of the Interior holdings in Colorado, while dedicating any remaining equalization funds to the purchase land and water rights for the Blanca Wetlands Management Area near Alamosa, CO.

This legislation is supported by local governments, environmental groups, and land developers in Colorado.

While I know that it is too late to enact this legislation this Congress, I and my colleague Senator BROWN have agreed to introduce it as a gesture of good faith to all the parties who have labored so long to craft this bill in the hopes that the lands will remain avail-

able until Congress can act on it next year. More specifically, the bill:

Enables Rocky Mountain National Park to obtain an adjacent 40-acre parcel known as the Circle C Ranch. The Park Service has long sought to acquire the ranch to avoid its subdivision and development;

Enables the BLM to acquire 517 acres within the Arkansas Headwaters Recreation Area. This land has approximately 3 miles of Arkansas River frontage and will afford fishermen access to a beautiful stretch of the river;

Results in the acquisition of approximately 4,000 acres of land currently owned by Quinlan Ranches, Inc. This land is located at the headwaters of La Jara Canyon and Fox Creek, approximately 10 miles from Antonito, CO. It has excellent elk winter range and other important wildlife habitat;

Creates a fund from cash equalization moneys that may be paid to the United States as a result of the exchange, with the fund to be used to purchase land or water rights from willing sellers to augment fish and wildlife habitat in the BLM's Blanca Wetlands Management Area. The BLM has wanted funds for these purposes for many years.

In exchange for approximately 4,500 acres of land, 130 parcels of highly fragmented BLM land totaling about 300 acres will be made available for private acquisition. Of these 130 parcels, 88 are less than 1 acre in size. The BLM, through its established land management process, has already identified these lands as appropriate for transfer to private ownership. This land will most likely be used to construct homes and small businesses near the city of Black Hawk.

I hope my colleagues will support this effort, and I ask unanimous consent that the text of the bill, along with letters of support from the Colorado Division of Wildlife, Colorado State Parks Department, the Sierra Club, the Lake County Commissioners, the Conejos County Commissioners, the city of Black Hawk, Central City, Michael Quinlin, Colorado Trout Unlimited, and the Collegiate Peaks Anglers be printed in the RECORD along with a recent article from the Denver Post.

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

S. 2470

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

##### SECTION 1. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds and declares that—

(1) certain scattered parcels of Federal land located within Gilpin County, Colorado, are currently administered by the Secretary of the Interior as part of the Royal Gorge Resource Area, Canon City District, United States Bureau of Land Management;

(2) these land parcels, comprised of approximately 130 separate tracts of land rang-

ing in size from approximately 38 acres to much less than an acre, have been identified as suitable for disposal by the Bureau of Land Management through its resource management planning process and are appropriate for disposal; and

(3) even though these land parcels are scattered and small in size, they nevertheless appear to have a fair market value which may be used by the Federal Government to exchange for lands which will better lend themselves to Federal management and have higher values for future public access, use and enjoyment, recreation, the protection and enhancement of fish and wildlife and fish and wildlife habitat, and the protection of riparian lands, wetlands, scenic beauty and other public values.

(b) PURPOSE.—It is the purpose of this Act to authorize, direct, facilitate and expedite the land exchange set forth herein in order to further the public interest by disposing of Federal lands with limited public utility and acquire in exchange therefor lands with important values for permanent public management and protection.

##### SEC. 2. LAND EXCHANGE.

(a) IN GENERAL.—The exchange directed by this Act shall be consummated if within 90 days after enactment of this Act Lake Gulch, Inc., a Colorado corporation (as defined in section 4 of this Act), offers to transfer to the United States pursuant to the provisions of this Act the offered lands or interests in land described herein.

(b) CONVEYANCE BY LAKE GULCH.—Subject to the provisions of section 3 of this Act, Lake Gulch shall convey to the Secretary of the Interior all right, title, and interest in and to the following offered lands—

(1) certain lands comprising approximately 40 acres with improvements thereon located in Larimer County, Colorado, and lying within the boundaries of Rocky Mountain National Park as generally depicted on a map entitled "Circle C Church Camp", dated August 1994, which shall upon their acquisition by the United States and without further action by the Secretary of the Interior be incorporated into Rocky Mountain National Park and thereafter be administered in accordance with the laws, rules and regulations generally applicable to the National Park System and Rocky Mountain National Park;

(2) certain lands located along the Arkansas River in Lake County, Colorado, which comprise approximately 517 acres, as generally depicted on a map entitled "Arkansas River Headwaters Frontage", dated August 1994; and

(3) certain lands located within and adjacent to the United States Bureau of Land Management San Luis Resource Area in Conejos County, Colorado, which comprise approximately 3,993 acres and are generally depicted on a map entitled "Quinlan Ranches Tract", dated August 1994.

(c) SUBSTITUTION OF LANDS.—If one or more of the precise offered land parcels identified above is unable to be conveyed to the United States due to appraisal or other problems, Lake Gulch and the Secretary may mutually agree to substitute therefor alternative offered lands acceptable to the Secretary.

(d) CONVEYANCE BY THE UNITED STATES.—(1) Upon receipt of title to the lands identified in subsection (a) the Secretary shall simultaneously convey to Lake Gulch all right, title, and interest of the United States, subject to valid existing rights, in and to the following selected lands—

(A) certain surveyed lands located in Gilpin County, Colorado, Township 3 South,

Range 72 West, Sixth Principal Meridian, Section 18, Lots 118-220, which comprise approximately 195 acres and are intended to include all federally owned lands in section 18, as generally depicted on a map entitled "Lake Gulch Selected Lands", dated July 1994;

(B) certain surveyed lands located in Gilpin County, Colorado, Township 3 South, Range 72 West, Sixth Principal Meridian, Section 17, Lots 37, 38, 39, 40, 52, 53, and 54, which comprise approximately 96 acres, as generally depicted on a map entitled "Lake Gulch Selected Lands", dated July 1994; and

(C) certain unsurveyed lands located in Gilpin County, Colorado, Township 3 South, Range 73 West, Sixth Principal Meridian, Section 13, which comprise approximately 10 acres, and are generally depicted as parcels 307-326 on a map entitled "Lake Gulch Selected Lands", dated July 1994: Provided, however, That a parcel or parcels of land in section 13 shall not be transferred to Lake Gulch if at the time of the proposed transfer the parcel or parcels are under formal application for transfer to a qualified unit of local government. Due to the small and unsurveyed nature of such parcels proposed for transfer to Lake Gulch in section 13, and the high cost of surveying such small parcels, the Secretary is authorized to transfer such section 13 lands to Lake Gulch without survey based on such legal or other description as he determines appropriate to carry out the basic intent of the map cited in this subparagraph.

(2) If the Secretary and Lake Gulch mutually agree, and the Secretary determines it is in the public interest, the Secretary may utilize the authority and direction of this Act to transfer to Lake Gulch lands in sections 17 and 13 that are in addition to those precise selected lands shown on the maps cited in paragraphs (d)(1)(B) and (d)(1)(C), and which are not under formal application for transfer to a qualified unit of local government, upon transfer to the Secretary of additional offered lands acceptable to the Secretary or upon payment to the Secretary by Lake Gulch of cash equalization money amounting to the full appraised fair market value of any such additional lands. If any such additional lands are located in section 13 they may be transferred to Lake Gulch without survey based on such legal or other description as the Secretary determines appropriate as long as the Secretary determines that the boundaries of any adjacent lands not owned by Lake Gulch can be properly identified so as to avoid possible future boundary conflicts or disputes. If the Secretary determines surveys are necessary to convey any such additional lands to Lake Gulch, the costs of such surveys shall be paid by Lake Gulch but shall not be eligible for any adjustment in the value of such additional lands pursuant to section 206(f)(2) of the Federal Land Policy and Management Act of 1976 (as amended by the Federal Land Exchange Facilitation Act of 1988) (43 U.S.C. 1716(f)(2)).

(3) Prior to transferring out of public ownership pursuant to this Act or other authority of law any lands which are contiguous to North Clear Creek southeast of the City of Black Hawk, Colorado, in the County of Gilpin, Colorado, the Secretary shall notify and consult with the governments of the County and the City and afford such units of local government an opportunity to acquire or reserve pursuant to the Federal Land Policy and Management Act of 1976 or other applicable law such easements or rights-of-way parallel to North Clear Creek as may be nec-

essary to serve public utility line or recreation path needs: Provided, however, That any survey or other costs associated with the acquisition or reservation of such easements or rights-of-way shall be paid for by the unit or units of local government concerned.

#### SEC. 3. TERMS AND CONDITIONS OF EXCHANGE

(a) EQUALIZATION OF VALUES.—The values of the lands to be exchanged pursuant to this Act shall be equal as determined by the Secretary of the Interior utilizing nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Standards for Federal Land Acquisition, the Uniform Standards of Professional Appraisal Practice, the provisions of section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)), and other applicable law. In the event it is determined that cash equalization moneys are owed to the United States in the exchange, any such cash equalization moneys shall be retained by the Secretary of the Interior and may be utilized by the Secretary until fully expended to purchase from willing sellers land or water rights, or a combination thereof, to augment wildlife habitat and protect and restore wetlands in the Bureau of Land Management's Blanca Wetlands, Alamosa County, Colorado. Any water rights acquired by the United States pursuant to this section shall be obtained by the Secretary of the Interior in accordance with all applicable provisions of Colorado law, including the requirement to change the time, place, and type of use of said water rights through the appropriate State legal proceedings and to comply with any terms, conditions, or other provisions contained in an applicable decree of the Colorado Water Court. The use of any water rights acquired pursuant to this section shall be limited to water that can be used or exchanged for water that can be used on the Blanca Wetlands. Any requirement or proposal to utilize facilities of the San Luis Valley Project, Closed Basin Diversion, in order to effectuate the use of any such water rights shall be subject to prior approval of the Rio Grande Water Conservation District.

(b) RESTRICTIONS ON SELECTED LANDS.—(1) Conveyance of the selected lands to Lake Gulch pursuant to this Act shall be contingent upon Lake Gulch executing an agreement with the United States prior to such conveyance, the terms of which are acceptable to the Secretary of the Interior, and which—

(A) grants the United States a covenant that none of the selected lands (all of which currently lie outside the State of Colorado's current legally approved gaming area) shall ever be used for purposes of gaming should the current legal gaming area ever be expanded by the State of Colorado; and

(B) permanently holds the United States harmless for liability and indemnify the United States against all costs arising from any activities, operations (including the storing, handling, and dumping of hazardous materials or substances) or other acts conducted by Lake Gulch or its employees, agents, successors or assigns on the selected lands after their transfer to Lake Gulch: Provided, however, That nothing in this Act shall be construed as either diminishing or increasing any responsibility or liability of the United States based on the condition of the selected lands prior to or on the date of their transfer to Lake Gulch.

(2) Conveyance of the selected lands to Lake Gulch pursuant to this Act shall be subject to the existing easement for Gilpin County Road 6.

(3) The above terms and restrictions of this subsection shall not be considered in deter-

mining, or result in any diminution in, the fair market value of the selected land for purposes of the appraisals of the selected land required pursuant to section 3 of this Act.

(c) REVOCATION OF WITHDRAWAL.—The Public Water Reserve established by Executive order dated April 17, 1926 (Public Water Reserve 107), Serial Number Colorado 17321, is hereby revoked insofar as it affects the NW  $\frac{1}{4}$  SW  $\frac{1}{4}$  of Section 17, Township 3 South, Range 72 West, Sixth Principal Meridian, which covers a portion of the selected lands identified in this Act.

(d) MANAGEMENT OF CERTAIN LANDS.—Upon their acquisition by the United States, the lands referred to in section 2(b)(2) of this Act shall be managed by the Secretary of the Interior in accordance with the laws, rules, and regulations generally applicable to the public lands, and, as appropriate, in accordance with cooperative agreements such as the existing Arkansas Headwaters Recreation Area Memorandum of Understanding, with special emphasis on public fishing and recreational access to the Arkansas River, and riparian and wetland habitat protection. The acquisition of such lands by the Secretary shall not be construed to impose any responsibility or liability on the Secretary with respect to hazardous substances which may exist on the lands as of the date of their acquisition by the United States. Without precluding any future determination by the Secretary or appropriate Federal or State authorities that cleanup of any hazardous substances which may be found to exist on the property would be appropriate, nothing in this Act shall be construed to require the Secretary to undertake any hazardous substances cleanup activities or studies.

#### SEC. 4. MISCELLANEOUS PROVISIONS.

(a) DEFINITIONS.—As used in this Act:

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "Lake Gulch" means Lake Gulch, Inc., a Colorado corporation, or its successors, heirs or assigns.

(3) The term "offered land" means lands to be conveyed to the United States pursuant to this Act.

(4) The term "selected land" means to be transferred to Lake Gulch pursuant to this Act.

(5) The term "Blanca Wetlands" means an area of land comprising approximately 9,290 acres, as generally depicted on a map entitled "Blanca Wetlands", dated August 1994, and any nearby land which the Secretary may purchase from willing sellers after the date of enactment of this Act utilizing funds provided by this Act or other funds and manage in conjunction with and for the same general purposes as the land depicted on that map.

(b) TIME REQUIREMENT FOR COMPLETING TRANSFER.—It is the intent of Congress that unless the Secretary and Lake Gulch mutually agree otherwise the exchange of lands authorized and directed by this Act shall be completed not later than 6 months after the date of enactment of this Act.

(c) ADMINISTRATION OF LANDS ACQUIRED BY UNITED STATES.—In accordance with the provisions of section 206(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(c)), all lands acquired by the United States pursuant to this Act shall upon acceptance of title by the United States and without further action by the Secretary concerned become part of and be managed as part of the administrative unit or area within which they are located.

## SUMMARY OF PROPOSED LAKE GULCH LAND EXCHANGE LEGISLATION

## Lake Gulch Inc. gets:

Approximately 300 acres of fragmented BLM lands located along the southern boundary of the City of Black Hawk, Colorado. The BLM lands comprise 130 separate parcels and range in size from 38 acres to one-one hundredth of an acre. 88 of the 130 parcels are less than one acre in size, and most are surrounded by, or adjacent to, land already owned by Lake Gulch Inc. or its affiliates. BLM has identified all the lands for disposal.

Lake Gulch Inc. has agreed to covenants that limit future use of the land to non-gaming purposes (i.e. no gambling development) and will hold the United States harmless from any liability relating to cleanup of old mining wastes on the land Lake Gulch acquires.

## United States gets:

The 40 acre Circle-C Church Camp which lies within Rocky Mountain National Park south of Estes Park, Colorado. Circle-C has been a long time acquisition priority for the Park Service because of potential for development that would be inconsistent with Park plans.

The 517 acre Minnequa Bank property located along the Arkansas River approximately 7 miles south of Leadville, Colorado. This property lies within the Arkansas Headwaters Recreation Area (a joint BLM-Colorado State Parks management area) and has about three miles of river frontage on the east bank of the Arkansas River. It also has fishing on two tributary streams. The property affords excellent views of Mt. Massive and Mr. Elbert and comprises mostly river floodplain. Acquisition by BLM would open significant new public fishing opportunities along the Arkansas river in a County where access is currently very limited due to private ownership.

Approximately 4,000 acres of private land intermingled with BLM and Forest Service holdings in the headwaters of La Jara Canyon and Fox Creek approximately 10 miles northwest of Antonito, Colorado. The land currently belongs to Quinlan Ranches, Inc. It has excellent elk winter range and other wildlife habitat, and borders the scenic La Jara Canyon. It also lies within and adjacent to the BLM's Los Magotes Area of Critical Environmental Concern (ACEC).

Funding to purchase water or land from willing sellers to augment wildlife habitat in the BLM's Blanca Wetlands management area 7 miles northeast of Alamosa, Colorado. The Blanca Wetlands contain existing and historic wetlands that are very productive for ducks and geese and have crucial winter habitat for bald eagles.

Fiscal savings: The Circle-C, Arkansas River and Blanca Wetlands acquisition proposals in this exchange all appear on a nationwide acquisition priority list that has been provided to Congress for Fiscal Year 1995 Land and Water Conservation Fund appropriations. Acquiring these three priority properties through a land exchange would achieve the LWCF goals without the need for spending increasingly scarce LWCF dollars.

LAKE COUNTY,  
BOARD OF COUNTY COMMISSIONERS,  
Leadville, CO, Aug. 5, 1994.

Hon. BEN NIGHTHORSE CAMPBELL,  
Washington, DC.

DEAR SENATOR CAMPBELL: The Lake County Board of Commissioners through this letter seeks your help in opening a unique segment of the Arkansas River to permanent

public access. As you can see from the enclosed newspaper article, which appeared in the Denver Post last fall, the upper Arkansas River is indeed bouncing back. The completion of two water treatment plants in the upper California Gulch watershed near Leadville together with the resiliency of the Arkansas River itself have led to producing a truly first class fishery.

On August 4, 1994 the Board held a formal public hearing on a proposal to have the Bureau of Land Management acquire a three mile stretch of the river south of Leadville by means of a land exchange. The County Commissioners toured this stretch of the river several weeks ago and strongly believe it should become public. At the public hearing unanimous support for the proposal was received along with statements of a truly remarkable resurgence in the river's water quality and fishing. According to several representatives from Trout Unlimited, the fishery is now among the best in the entire state.

The biggest obstacle at this time in Lake County is that most of the river frontage is in private ownership. This severely limits access to fishing opportunities along the river. The BLM acquisition of the Minnequa Bank parcel would provide new public access along a three mile length of the river as well as along two tributary streams where we have observed first hand healthy fish.

In summary, the Board views this land exchange as having a very positive impact for Lake County as we expand our economic base. The Board notes that a land exchange of this nature will not require the expenditure of tax dollars, and appears, therefore, to be a prudent and fiscally sound endeavor in all respects.

Accordingly, based on the findings of the Public Hearing, the Lake County Board of Commissioners requests that you assist in whatever capacity is needed to move this exchange proposal forward.

Thank you in advance for your consideration of this matter. Of course the Board stands ready to offer any further assistance or information as may be helpful in your deliberations.

Sincerely,

JAMES E. MARTIN,  
Chairman.  
EDWARD J. O'LEARY,  
Commissioner.  
ROBERT W. CASEY,  
Commissioner.

CITY OF BLACK HAWK,  
Black Hawk, CO, Aug. 3, 1994.

Senator BEN NIGHTHORSE CAMPBELL,  
Washington, DC.

DEAR SENATOR CAMPBELL: We are writing to express our support for the efforts by Lake Gulch Inc. to acquire approximately 400 acres of scattered public lands lying directly south of the boundaries of Black Hawk and Central City. We understand that the acquisition will be by way of a land exchange with the United States and are supportive of that concept.

The public lands which Lake Gulch Inc. is seeking to acquire consist of dozens of small scattered parcels administered by the U.S. Bureau of Land Management, ranging in size from approximately 1/100th of an acre to 33 acres. Most are less than an acre in size. The BLM lands are largely either surrounded by or contiguous to, land which is privately owned or controlled by Lake Gulch Inc. or its affiliates. As such, and because of the very small size of most of the BLM parcels, their utility for future public use and enjoy-

ment is very limited. The land ownership pattern and problems are similar to those which prompted Congress and the President to approve the recently enacted law in neighboring Clear Creek County. With the exception of a small portion of the North Clear Creek floodplain, lands are not needed for any purposes of local government and can be conveyed into private ownership.

It is our belief that the proposed acquisition by Lake Gulch Inc. will benefit our area by consolidating land that can be used for future residential and non-gaming purposes, and that the consolidation represents the most likely scenario to achieve an early cleanup of the numerous mine tailings and other surface disturbances which scar the land and inhibit cleanup of our streams.

As you may also be aware, the rapid commercial development associated with gaming in our area has resulted in a scarcity of affordable land available for residential purposes. As a result, many of those who work in Black Hawk and Central City are commuting in long distance every day from the Denver metro area, which is an undesirable situation from numerous standpoints, including employee health and safety, air pollution, and traffic congestion. Likewise, because of high land values within the gaming area and the rugged, unbuildable terrain which predominates into many surrounding areas, our community currently lacks many basic stores and services which other communities take for granted. We believe that because the intermingled Lake Gulch Inc. and BLM lands lie directly adjacent to the boundaries of Black Hawk and Central City, but outside the legally permissible gaming area, a consolidated private ownership will realistically lend itself to the construction of affordable housing and other non-gaming uses and services for which we have a great need.

Thank you for considering our views on this important matter. We hope you will be able to lend your assistance to the land exchange project as it moves forward.

Sincerely,

KATHRYN ECCKER,  
Mayor.

QUINLAN RANCHES, INC.,  
Denver, CO, Aug. 5, 1994.

Hon. SCOTT MCINNIS,  
U.S. House of Representatives,  
Washington, DC.

Senator BEN NIGHTHORSE CAMPBELL,  
Russell Senate Office Building,  
Washington, DC.

Senator HANK BROWN,  
Hart Senate Office Building,  
Washington, DC.

GENTLEMEN: Our family corporation is the owner of approximately 4,000 acres of land near Conejos Canyon in Conejos County. This land is interspersed with BLM and National Forest land and is appropriate for acquisition by those agencies to enable them to better manage their lands as an integrated unit. The land has absolutely superb elk habitat, very important winter range, and is highly scenic. We believe you will shortly be receiving a communication from the Colorado Division of Wildlife further describing the property and the reasons why it should be in public ownership.

For those reasons we are working with representatives of Lake Gulch Inc. to include our land in a land exchange with BLM so that it will come into public ownership. We understand that the proposal will be presented to you for introduction into the Congress next week, and we encourage you to give it your support.

We stand ready to offer you any assistance we can in consummating the exchange. Please let us know what additional information you may require. The family members are getting on in years and would like to see the public acquisition a reality.

Sincerely,

MICHAEL C. QUINLAN.

COLORADO TROUT UNLIMITED,  
Englewood, CO, June 30, 1994.

Senator BEN NIGHTHORSE CAMPBELL,  
Russell Senate Office Building,  
Washington, DC.

DEAR SENATOR CAMPBELL: For several years now our members have been involved in efforts to have BLM acquire a 517 acre tract of land in Lake County approximately 7 miles south of Leadville. This land has roughly 3 miles of river frontage on the Arkansas River, as well as fishing on Big Union Creek and Spring Gulch, which cross the property. For your reference, I am enclosing a copy of an article about the tract which appeared in the Denver Post last fall.

Our members are interested in this acquisition because it would open a prime stretch of the Arkansas River in Lake County to public access and fishing. Most of the river of Lake County is currently closed to fishing because it is private land. BLM acquisition of the land would also dovetail very nicely into the Arkansas Headwaters Recreation Area management scheme, which is an ongoing cooperative effort between BLM and the State of Colorado. Although there may be some hazardous materials deposited in the floodplain of the property as a result of washdowns from California Gulch before EPA's recent cleanup efforts, the river in this segment now appears to be in good condition, and we believe the benefits of public ownership are paramount.

On behalf of our members, therefore, Colorado Trout Unlimited urges you to assist BLM acquisition of this property. We understand that the property may be included in a land exchange proposal to be submitted for your consideration in the near future. Assuming the other aspects of the proposed exchange meet with your approval, we strongly urge you to seek its approval so that the Arkansas River land will be opened to public use.

For the Board of Directors,

J. STEPHEN CRAIG,  
Executive Director.

COLLEGIATE PEAKS ANGLERS,  
CHAPTER OF TROUT UNLIMITED,  
Salida, CO, July 15, 1994.

Senator BEN NIGHTHORSE CAMPBELL,  
Senate Office Building,  
Washington, DC.

DEAR SENATOR CAMPBELL: This is the second time in 2 years that our Trout Unlimited chapter has written to seek your support for a land exchange proposal involving key river frontage property along the upper section of the Arkansas River just south of Leadville. Our 150 members include several people who live in Leadville. The citizens of the upper Arkansas Valley have little public access to the Arkansas and this exchange would go a long way toward easing that situation.

The proposed exchange includes 3 miles of frontage on the main river as well as access to parts of Big Union Creek and Spring Gulch. The land is contiguous with BLM property just down stream and will make an excellent addition to the Arkansas Headwaters Recreation Area which is jointly managed by the BLM and the Colorado Department of Natural Resources.

In addition, we would ask that there be a condition placed on the acquisition that would limit the number and size of the fish that could be harvested. The exact regulations would be set by the Colorado Division of Wildlife. There is a superb population of large fish in this part of the river because it has not been open to public fishing and it would be a disservice to other anglers to allow a few greedy people to remove these fine fish in the first few days of public access.

On behalf of our members here in the Upper Arkansas Valley we urge you to support this exchange.

For our Board of Directors,

GEORGE KAVOURAS,  
President.

COLORADO DIVISION OF WILDLIFE,  
Salida, CO, July 20, 1994.

Senator BEN NIGHTHORSE CAMPBELL,  
Russell Senate Office Building,  
Washington, DC.

DEAR SENATOR CAMPBELL: The Colorado Division of Wildlife supports the proposal for a land exchange by the BLM in order to acquire a portion of land bordering the Arkansas River in Lake County, 7 miles south of Leadville.

This acquisition would open, for fisherman access, a valuable 2.5 miles along the Arkansas River as well as fishing opportunity on Big Union Creek. Presently Lake County has limited public access on the river. This proposal would be of significant value to the area.

Since the EPA Superfund Clean-up Activity, the Arkansas River Headwaters has become a valuable fishery and will continue to improve.

Therefore, I strongly urge that when this land exchange proposal is submitted, you give it favorable consideration, assuming it meets the land exchange criteria.

Regards,

STAN OGLIVIE,  
Area Wildlife Manager.

STATE OF COLORADO,  
COLORADO STATE PARKS,  
Denver, CO, July 15, 1994.

Senator BEN NIGHTHORSE CAMPBELL,  
Russell Senate Office Building,  
Washington, DC.

DEAR SENATOR CAMPBELL: I have recently learned of the opportunity the Bureau of Land Management (BLM) may have to purchase approximately three (3) miles of riverfront property along the Arkansas River in Lake County near Leadville, Colorado. This is exciting news, and I would like to offer my support of this acquisition.

The BLM and Colorado State Parks, together, manage the Arkansas Headwaters Recreation Area (AHRA). This is a unique partnership for management of an outstanding area that extends 148 miles from just below Leadville to the upper end of Pueblo reservoir.

The AHRA is a newly created area (1989) and, as such, is still in its development stages. The authors of the area's Management Plan, primarily the region's local citizens and representatives, and the Division of Wildlife, have identified a real need to acquire fishing access in almost exactly the same area available to us now.

There is currently very little public river access in Lake County, especially this close to Leadville. Acquisition of this property would consequently be very beneficial to the citizens of Leadville, Lake County, and the visitors to the Arkansas Headwaters Recreation Area. Once acquired, the area can and

will be incorporated into AHRA, as already provided for in the area's Management Plan.

I also understand that the floodplains along the river contain some depositional material from mining activities that fit under the category of hazardous materials. These deposits may be a source of contamination to the river and could be a future liability problem if any cleanup is needed. It is important that any action authorizing acquisition of his property address this issue.

I hope this addition to the Arkansas Headwaters Recreation Area can become a reality. Thank you for any help you can lend.

Sincerely,

LAURIE MATHEWS,  
Director.

SIERRA CLUB,  
ROCKY MOUNTAIN CHAPTER,  
Denver, CO, August 30, 1994.

Senator BEN NIGHTHORSE CAMPBELL,  
Russell Senate Office Building,  
Washington, DC.

DEAR SENATOR CAMPBELL: I am writing today to express the support of the Rocky Mountain Chapter of the Sierra Club for H.R. 5016, the Gilpin County, Colorado—BLM Land Transfer Act of 1994, introduced by Rep. David Skaggs. The Sierra Club in Colorado has had the opportunity to review the particulars of this bill and we believe it is in the overwhelming best interests of the citizens of Colorado and of the United States that the bill be quickly enacted. We urge you to cosponsor this bill in the United States Senate.

The lands to be disposed by the United States are scattered small tracts on the edge of expanding development and are best suited for transfer to private ownership. In exchange, the United States will receive title to a number of spectacular parcels, including several of the highest priorities for land acquisition by the BLM and the National Park Service in Colorado. The acquisition of these high priorities—Blanca wildlife habitat by BLM and the Circle-C church camp by Rocky Mountain National Park—will result in a fiscal savings of some \$1 million by avoiding the need to spend scarce Land and Water Conservation Funds. At the Blanca wildlife habitat area, BLM is attempting to recreate in the San Luis Valley a portion of what was once the most extensive wetlands in Colorado. The Circle-C church camp acquisition will eliminate a serious conflict with management of the Park Service's Long Peak campground.

The bill's remaining acquisitions will also result in significant gains for public fish and wildlife habitat. The Arkansas River parcel will open up 3 miles of river to public fishing along a stretch gaining popularity with anglers, and the large block of lands in La Jara Canyon will safeguard important big game winter range.

Sincerely yours,

MARK PEARSON,  
Wilderness Chair.

[From the Denver Post, Sept. 22, 1993]  
UPPER ARKANSAS IS BOUNCING BACK  
(By Charlie Meyers)

LEADVILLE.—With all the daintiness of a matron sipping high tea, the trout removed the fly from the rippled surface, lowered its head and prepared to resume its repose in the depths of the pool.

The angler, alerted by a recent surge of activity, snapped the rod back sharply in anticipation of yet another of the river's modest-sized trout. What happened next was totally out of character for a stream that, by rights, shouldn't have any fish at all.

At the first pressure, the line scythed sharply downstream and the angler, surprised by the power of the run and fearing for his light tippet, felt the rod dip dangerously before he yielded line. The fish that eventually came splashing into the shallows was, like a dozen or so before it, a brown trout. But this one, quickly photographed and released, measured just more than 18 inches and displayed the beginnings of a hooked jaw, a testament to a longevity that defied its circumstances.

This fish had been caught just 5 miles below a place where, less than a year and a half earlier, an ugly effluvium soil poisoned the river. Now the upper Arkansas River is teeming with trout, some of very respectable size. How they, and their ancestors, survived through all the outpouring of heavy metals from the controversial Yak Tunnel near Leadville is a mystery. Less puzzling, but still not wholly determined, is what the future of the river will be.

The tunnel, a 4-mile-long conveyance through which the leachings of some 200 old mines have been delivered for the better part of a century, more recently has gained notoriety as a Superfund site of the Environmental Protection Agency and, consequently, a political and legal football.

EPA has put the clamps on two mining companies that had the remarkably poor judgment to take over the tunnel operation 40 years ago. Res-Asarco Joint Venture, a foible of the Asarco and Newmont mining companies, was ordered to install a \$15 million water treatment plant to clean up the assortment of zinc, cadmium, lead and arsenic that had been flowing down California Gulch in an ugly orange rush into the Arkansas.

Although they had to be dragged, kicking and screaming, much of the way, the mining companies have executed the charge well. The plant has been in operation since April 1992, and Kan Wangerud, EPA's manager for the project, reports it is removing 200 tons of toxins a year from the river.

"It has been estimated that 80 percent of all the metal loading in the Arkansas comes from California Gulch," said Wangerud, who said his agency will continue to pursue cleanup of other pollution sources, even as it moves to resolve its legal entanglements with Res-Asarco.

Meanwhile, the upper river seems to have taken a decided turn for the better, particularly on a 3-mile stretch that is being shuttled through Congress as part of an appropriation package that would put it under control of the Bureau of Land Management and, hence, open to the public. The parcel, which includes 517 acres of river bottom land that largely has been abused by cattle, is presently under foreclosure by the Minnequa Bank of Pueblo. The appropriation amount is \$350,000.

I came to this stretch last week with John Singletary, a Pueblo resident who represents the bank in its efforts to sell the property.

"You won't believe how many fish are in the river," Singletary had said. "I caught 30 or 40 one day, some of them really nice."

I've known Singletary for years, have hunted with him, and know him as an honorable man. But I also had fished this same place a dozen years earlier and come away convinced the mine effluent had left it virtually decimated. Could there have been such a rousing recovery so soon?

On a day when golden aspen trees shimmered on the flanks of the surrounding peaks beneath a cloudless sky, the answer came quickly. A 16-inch brown took a deep

drifted Prince nymph and, as the day and the water warmed, a dozen and a half were caught and released on an Elk-hair caddis on the surface. Twice that many more moved on the fly in some manner. The catch also included a cutthroat and a brook trout. Singletary added eight fish on spinners, his efforts doubtlessly hampered by the cold water.

So where did all these fish come from? One likely scenario is that, as water quality improves, they have migrated in from both upstream and downstream, as well as from a major tributary, Lake Fork Creek.

Of all this, the element that impressed me most was the river itself. It turns and tumbles through some of the more inviting rifles and runs you'll ever find in a stream that size. There could be even better days ahead, with an agreement in principle for EPA and Res-Asarco to settle all aspects of litigation.

"Then we could use all our resources for pollution control instead," Wangerud said.

Let the cleanup continue.

SIERRA CLUB,  
ROCKY MOUNTAIN CHAPTER,  
Durango, CO, July 13, 1994.

Senator BEN NIGHTHORSE CAMPBELL,  
Russell Senate Office Building,  
Washington, DC.

DEAR SENATOR CAMPBELL: I am writing to encourage your support for acquisition of water rights and habitat for the Bureau of Land Management's Blanca Wildlife Habitat area in the San Luis Valley. Specifically, a new opportunity has arisen whereby funds could be provided to BLM for this important acquisition as part of a larger, legislated land exchange.

The Blanca Wildlife Habitat area offers the potential for 3,000 acres of riparian wetlands and associated recreational opportunities such as hunting, fishing, hiking, picnicking, and birdwatching on the floor of the San Luis Valley. Acquisition of land and water rights by BLM will make possible the protection and restoration of historic wetlands that produce 15,000 waterfowl and 1,500 geese each year and also provide critical winter habitat for bald eagles. In addition, the Blanca Wildlife Habitat area is already a congressionally approved mitigation site for the Bureau of Reclamation's Closed Basin Water Salvage Project. Acquisition of the Blanca Wildlife Habitat area therefore not only greatly benefits wildlife and recreation in the San Luis Valley, but also furthers the importance congressional goal of mitigating impacts from a major Bureau of Reclamation project. For these reasons, federal acquisition of land and water rights at the Blanca Wildlife Habitat area merits your support.

Legislation may soon be proposed to implement a wide-ranging land exchange of BLM and private lands throughout Colorado. Part of this exchange envisions freeing up funds for BLM to purchase land and water rights at the Blanca Wildlife Habitat area. I encourage you to support this legislated land exchange to benefit the Blanca Wildlife Habitat area if the other, as yet undefined, components of the exchange meet with your approval.

Sincerely yours,

MARK PEARSON,  
Wilderness Chair.

CONEJOS COUNTY GOVERNMENT,  
BOARD OF COUNTY COMMISSIONERS,  
Conejos, CO, Sept. 1, 1994.  
Re Hogote Property Trade-BLM.

Mr. WAYNE QUINLAN,  
Quinlan Ranches, Inc., Antonito, CO.

DEAR WAYNE: We understand that the BLM is interested in acquiring your Hogote property through a trade which would result in BLM owning this property. We further understand that Scott McGinness and Ben Nighthorse Campbell on behalf of the BLM are willing to introduce a bill in Congress for the acquisition of this property.

Please be advised that the Conejos County Board of County Commissioners has no objections to such a transaction.

Sincerely yours,

LEROY VELASQUEZ,  
Chairman.

By Mr. KOHL (for himself and Mr. COHEN):

S. 2471. A bill to authorize the Administrator of the Office of Juvenile Justice and Delinquency Prevention Programs to make grants to States and units of local government to assist in providing secure facilities for violent and chronic juvenile offenders; to the Committee on the Judiciary.

THE JUVENILE CORRECTIONS ACT OF 1994

• Mr. KOHL. Mr. President, only weeks have passed since the President signed the crime bill into law. I, and others, have praised the crime bill for being comprehensive and sweeping in nature—for attacking the crime problem on a range of different fronts including policing, punishment, prisons, and prevention.

There is one facet of the crime problem, however, that the Crime Act did not address. Even though juvenile crime is, as we know, at the very heart of the crime problem nationwide, and even though the crimes juveniles commit are increasingly violent in nature, not one penny of the Crime Act is dedicated to the construction, expansion, and operation of juvenile corrections facilities.

Not one penny dedicated to juvenile detention facilities, Mr. President, in an omnibus law that otherwise contains \$8 billion in prison funding.

The truth is that the draft version of the crime bill conference report did indeed contain a provision establishing funding for secure juvenile facilities. But this provision was inexplicably eliminated at the eleventh hour by conference negotiators.

Today I resurrect that crucial provision. The Juvenile Corrections Act of 1994, which I am pleased to introduce together with my friend and colleague Senator COHEN, would establish a distinct source of Federal funding for State and local governments to construct, expand, and operate secure juvenile corrections facilities. These facilities will be used to incarcerate violent and chronic juvenile offenders.

Mr. President, this bill would guarantee that juvenile corrections does not become the poor stepchild of Federal anticrime efforts. And it would do so without increasing the deficit, by funding juvenile facilities through a reallocation of 10 percent of the Crime

Act's general prison funding. It is not, in my view, unreasonable to suggest that 10 percent of the money spent by the Federal Government on prisons should be devoted to juvenile facilities and the incarceration of violent juvenile offenders.

Let me close, Mr. President, by pointing out that the need for Federal juvenile corrections assistance is clear and immediate. A study released this past week by the Office of Juvenile Justice and Delinquency Prevention indicates that the majority of juvenile detention facilities nationwide are vastly overcrowded and understaffed—much more so than adult prisons. Juvenile offenders attacked detention facility staff 8,000 times last year. And recidivism rates for juveniles who have been incarcerated are unbelievably high.

In short, we cannot afford to turn a blind eye to the juvenile corrections problem. And so I hope my colleagues will join with me and Senator COHEN next year in enacting the Juvenile Corrections Act as an important supplement to the Crime Act.●

By Mr. LOTT:

S. 2472. A bill to require the Administrator of the Environmental Protection Agency to issue rules governing risk assessments, and for other purposes; to the Committee on Environment and Public Works.

THE SOUND SCIENCE IN RISK ASSESSMENT ACT

● Mr. LOTT. Mr. President, the bill I am introducing today will ensure that the Environmental Protection Agency provides a solid, uniform, credible foundation for our environmental laws and regulations. Clearly, there is a credibility crisis today because of the politicizing of scientific data. It has reached such a level "Nightline's" Ted Koppel devoted an entire show to how shamelessly sound scientific data has been ignored to advance a political agenda. This is wrong.

EPA is jeopardizing all scientifically based rules and regulations by its cavalier and frequently arbitrary manner in establishing risk criteria. To provide a balanced approach, legislative guidelines are needed. My bill will address this problem. It allows both the public and the scientific community through public forums to examine the scientific foundation for each risk criteria. This bill will not prevent EPA from implementing rules. Rather, it will provide greater support for the rules because of this inclusive risk criteria developmental process.

Another equally valid reason for this bill is prioritization. The risk assessment process will apply consistent rules which will enable appropriate comparisons, and the identification of anticipated benefits. This means public officials can select rules which afford the greatest protection to the public. Fiscal constraints makes this essential

because governments, at all levels, have limited and finite resources.

EPA already has a number of risk assessment guidelines; however, there is widespread recognition that they are inadequate. Even an internal EPA review revealed that its process is not up to the standards necessary for providing unbiased scientific public policy.

My bill will restore confidence in the process for developing risk assessment. First, it requires full and clear disclosure of all uncertainties. Second, it sets specific timeframes for promulgating rules. Third, it requires all risks go through the public notice and comment procedure. The same process that all regulatory rules are subjected. And fourth, it requires EPA to update risk assessments as scientific understandings change.

In closing, I urge my colleagues to support this legislation. It makes risk assessment fully accountable to both the public and the Congress and not just subject to the discretion of invisible bureaucrats or an agency.●

ADDITIONAL COSPONSORS

S. 549

At the request of Mr. DOMENICI, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 549, a bill to provide for the minting and circulation of one-dollar coins.

S. 1288

At the request of Mr. AKAKA, the names of the Senator from North Dakota [Mr. CONRAD], the Senator from Nebraska [Mr. KERREY], and the Senator from Oregon [Mr. PACKWOOD] 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. 1343

At the request of Mr. AKAKA, the names of the Senator from New Jersey [Mr. BRADLEY] and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of S. 1343, a bill entitled the "Steel Jaw Leghold Trap Prohibition Act."

S. 1408

At the request of Mr. LOTT, the name of the Senator from New Hampshire [Mr. GREGG] was added as a cosponsor of S. 1408, a bill to repeal the increase in tax on Social Security benefits.

S. 2094

At the request of Mr. DASCHLE, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of S. 2094, a bill to make permanent the authority of the Secretary of Veterans Affairs to approve basic educational assistance for flight training.

S. 2294

At the request of Mr. HATFIELD, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 2294, a bill to amend the Public Health Service Act to provide for the expansion and coordination of research concerning Parkinson's disease and related disorders, and to improve care and assistance for its victims and their family caregivers, and for other purposes.

S. 2300

At the request of Mr. PRESSLER, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 2300, a bill to prohibit all United States military and economic assistance for Turkey until the Turkish Government takes certain actions to resolve the Cyprus problem and complies with its obligations under international law.

S. 2330

At the request of Mr. ROCKEFELLER, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 2330, a bill to amend title 38, United States Code, to provide that undiagnosed illnesses constitute diseases for purposes of entitlement of veterans to disability compensation for service-connected diseases, and for other purposes.

S. 2359

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 2359, a bill to modify the boundaries of Walnut Canyon National Monument in the State of Arizona.

S. 2378

At the request of Mr. DOLE, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 2378, a bill to prohibit U.S. assistance to countries that prohibit or restrict the transport or delivery of U.S. humanitarian assistance.

S. 2441

At the request of Mr. HEFLIN, the names of the Senator from Tennessee [Mr. MATHEWS] and the Senator from Indiana [Mr. COATS] were added as cosponsors of S. 2441, a bill to provide for an independent review of the implementation of the National Implementation Plan for modernization of the National Weather Service at specific sites, and for other purposes.

SENATE JOINT RESOLUTION 182

At the request of Mr. JOHNSTON, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of Senate Joint Resolution 182, a joint resolution to designate the year 1995 as "Jazz Centennial Year."

SENATE JOINT RESOLUTION 219

At the request of Mr. LEAHY, the names of the Senator from Vermont [Mr. JEFFORDS], the Senator from Missouri [Mr. BOND], the Senator from Mississippi [Mr. LOTT], and the Senator from Oklahoma [Mr. BOREN] were added as cosponsors of Senate Joint Resolution 219, a joint resolution to

commend the U.S. rice industry, and for other purposes.

## SENATE RESOLUTION 257

At the request of Mrs. KASSEBAUM, the names of the Senator from Alaska [Mr. MURKOWSKI] and the Senator from Nevada [Mr. BRYAN] were added as co-sponsors of Senate Resolution 257, a resolution to express the sense of the Senate regarding the appropriate portrayal of men and women of the Armed Forces in the upcoming National Air and Space Museum's exhibit on the *Enola Gay*.

## SENATE RESOLUTION 264

At the request of Mr. MCCAIN, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of Senate Resolution 264, a resolution expressing the sense of the Senate that the President should issue an Executive order to promote and expand Federal assistance for Indian institutions of higher education and foster the advancement of the national education goals for Indians.

## SENATE RESOLUTION 270—RELATIVE TO UNITED STATES RELATIONS WITH TAIWAN

Mr. MURKOWSKI (for himself, Mr. ROBB, Mr. BROWN, Mr. PELL, Mr. HELMS, and Mr. SIMON) submitted the following resolution; which was referred to the Committee on Foreign Relations:

## S. RES. 270

Whereas the Republic of China on Taiwan (known as Taiwan) is the United States' fifth largest trading partner and an economic powerhouse buying more than twice as much annually from the United States as do the 1.2 billion Chinese of the People's Republic of China;

Whereas European countries, with numerous ministerial visits to Taipei in support of their trade promotion efforts have been awarded over US\$5 billion in contracts for Taiwan's Six Year National Development Plan, while U.S. companies have won only US\$1.37 billion in contracts (1991-93);

Whereas Taiwan is a model emerging democracy, with a free press, free elections stable democratic institutions, and human rights protections;

Whereas United States interests are served by supporting democracy and human rights abroad;

Whereas United States interests are best served by policies that treat Taiwan's leaders with respect and dignity;

Whereas the results of the Executive branch review of the policy of the United States toward Taiwan were announced on September 7, 1994;

Whereas the adjustments made in United States policy toward Taiwan do not concretely or adequately upgrade relations.

Therefore it is the sense of the Senate that United States policy toward Taiwan should:

(1) welcome the President of the Republic of China on Taiwan and other high-level government officials to the United States;

(2) allow unrestricted office calls by all representatives of Taiwan in the United States to all United States departments and agencies, including the Departments of Defense and State and offices in the Old Executive Office Building;

(3) send cabinet-level officials, including officials from the Departments of State and Defense, to Taiwan on a regular basis;

(4) support a proposal in the 48th General Assembly of the United Nations for formal observer status for Taiwan as a first step toward full membership in the United Nations and its specialized agencies;

(5) support a proposal at the earliest possible time for full admission for Taiwan into a wide range of international organizations including, but not limited to:

(a) the General Agreement on Tariffs and Trade (GATT) as a developed country, irrespective of the timetable for the admission into GATT of the People's Republic of China;

(b) the International Bank for Reconstruction and Development (IBRD or the World Bank);

(c) the International Monetary Fund;

(d) the Convention on Trade in Endangered Species of Flora and Fauna (CITES);

(e) the Montreal Protocol of the United Nations Environment Programme (UNEP);

(f) International Maritime Organization (IMO);

(g) International Atomic Energy Agency (IAEA); and

(h) United Nations High Commission for Refugees (UNHCR)

(6) change the name of Taiwan's representative office in the United States to the "Taipei Representative Office";

(7) approve defensive arms sales to Taiwan based solely on Taiwan's self-defense needs, without qualitative or quantitative restrictions;

(8) require advice and consent of the United States Senate for the highest level representative of the United States in Taiwan;

(9) upgrade the status of the existing American Institute in Taiwan (AIT);

(10) include a report by the Secretary of State to the Senate Foreign Relations Committee and the House Foreign Affairs Committee on U.S. economic, cultural, political and security relations with Taiwan on an annual basis;

(11) support participation of the President of the Republic of China on Taiwan in the Asia Pacific Economic Cooperation forum; and

(12) raise U.S. concerns about the People's Republic of China threat to forcefully reunify Taiwan and the People's Republic of China.

• Mr. MURKOWSKI. Mr. President, I am submitting this resolution to express the sense of the Senate concerning United States relations with Taiwan on behalf of myself and Senator ROBB, Senator BROWN, Senator PELL, Senator HELMS, and Senator SIMON.

In July 1993, the administration indicated that it was involved in an inter-agency review of United States policy toward Taiwan. I was told on many occasions that an announcement about the policy review was imminent, but then something would come up to delay its release—and that something was usually the People's Republic of China. First there was the most-favored-nation debate, and then North Korea negotiations, and then Secretary Brown's trip to Beijing. Finally, on September 7, during the congressional recess, the policy was quietly announced.

It is often said that you have to crawl, before you walk, before you

run—and the administration really took that adage to heart when it looked at United States policy toward Taiwan. It did not even make real changes to the policy, only adjustments. Let me make clear: I welcome the mere fact that the adjustments were made at all. A review of United States-Taiwan relations was long overdue, and at least the changes that were made are tentative steps toward making our policy more rational. But I think bolder and more substantive steps are necessary.

First, the policy review changed the name of the Coordination Council for North American Affairs to the Taipei Economic and Cultural Representative Office. At least it has a geographical reference, but why not identify Taiwan?

Second, higher-level U.S. Government officials from economic and technical agencies will be allowed to visit Taiwan under the revised policy. Of course, Carla Hills, U.S. Trade Representative during the Bush administration, visited Taiwan, so this adjustment is not breaking new ground. The key here is implementation.

Third, ROC officials meeting with some high-ranking U.S. officials will now be able to meet in official settings rather than hotels and restaurants. But the policy leaves the caveat that this excludes meetings at the State Department, Old Executive Office Building, or the White House, even though AIT officials are now allowed to go to the Foreign Affairs Ministry in Taipei, the equivalent of our State Department. So we can go into theirs, but they cannot visit ours. Does this make sense?

In those areas where adjustments were made, the administration at least acknowledged some inconsistencies. I am most concerned about those areas where the administration chose to keep the status quo intact. What did not change?

The arms sale policy still has the inconsistency of the bucket. The Taiwan Relations Act says we will provide for Taiwan's self-defense needs, but then we told the PRC we would limit the quality and quantity of our sales. In practice, the bucket is an anachronism because we broke it with the F-16's. But by pretending to still adhere to arbitrary limits, our defense exporters lose sales because there are no ground rules for when a system will or will not be approved.

In testimony submitted by the American League for Exporters and Security Assistance before the Senate Foreign Relations Committee hearing yesterday on United States relations with Taiwan it is estimated that past and present defense sales lost to the Taiwan defense sales policy could reach as high as \$20 billion in revenue and 456,000 jobs.

In addition, these questions remain to be answered:

United States military planes cannot stay overnight, but must go to Japan. What purpose does this serve except to waste U.S. taxpayer dollars?

Visas are stamped with Hong Kong rather than Taipei. What happens in 1997?

Official visits to the United States by President Lee and other high-level Taiwanese officials are still prohibited.

Government officials are still prohibited from visiting the State Department, the White House, and the Old Executive Office Building.

Taiwan membership in the United Nations is not supported.

I know that the administration will likely defend the lack of change as a signal that the policy has been working in the past—if it's not broke, don't fix it. But Mr. President, I disagree.

This new policy might suit diplomacy 101, but it does not suit fairness 101. This is not a just policy for the 21 million people on Taiwan who lack representation in the multilateral institutions that want Taiwan's money and Taiwan's compliance but not their input. It is not a just policy for the ROC Government officials who act with great dignity and respect, but are not treated to the same.

This is not a just policy for a country like the United States that claims to stand for democracy and human rights. This is not a just policy for President Clinton who made democracy a cornerstone of his foreign policy. This is the President who said: "We need new leadership that will stand with the forces of democratic change . . . a President who will utilize our economic, political and cultural resources to assist the new forces of freedom emerging around the world." Why does this apply to Haiti, but not Taiwan?

Mr. President, I find it ironic and sad that this administration is willing to risk the lives of American soldiers to restore Aristide to power in Haiti under the guise of democracy, but is not willing to ruffle the PRC's feathers by rewarding democracy and human rights in Taiwan. The United States continues to turn a cold shoulder toward Taiwan, even as the world itself is warming up. Our Taiwan policy is a relic of the cold war.

Back in 1978, when the United States broke off diplomatic relations with the ROC and recognized the PRC we lived in a very different world. A wall still divided the two Germanys, the Soviet Union was the "evil empire" and the people of Taiwan lived under martial law. This was the state of the world when the United States passed the Taiwan Relations Act. Although the world has changed dramatically since then, our policy has not.

Taiwan has emerged as a model democracy: martial law was lifted, press curbs were lifted, and opposition parties were made legal. Popular presidential elections are scheduled for 1996.

Taiwan has emerged as an economic powerhouse: the world's 13th largest trading economy with the largest foreign reserves, our 5th largest trading partner, despite power buying trips led by Secretary of Commerce Brown, Taiwan still buys twice as much from the United States as the PRC.

Taiwan and the PRC have allowed economic and social contact. In 1993, the ROC became the second largest investor in the PRC. 1.5 million residents of Taiwan traveled to the mainland last year.

But rather than reward Taiwan for the enormous, positive changes it has undertaken, the United States has chosen to treat it like an international pariah. We are all familiar with the unfortunate incident when President Lee's request for an overnight stay in Hawaii en route to Costa Rica was denied after protests from the PRC Embassy. There are many of us in Congress who feel very strongly that not only should President Lee be permitted to stay overnight on U.S. soil, he should be welcomed as a guest.

After all, this administration has seen the benefit to having Yasser Arafat, head of the PLO and not a recognized government leader, visit the White House. Similarly, Gerry Adams, head of Sinn Fein, the political wing of the Irish Republican Army, visited the United States. In each of these cases, there were certainly objections. In fact, I am told that the United States has recently granted Gerry Adams a 2-week visa to visit several cities, over the objections of the U.K. Similarly, Tibet's exiled leader, the Dalai Lama called on Vice-President GORE at the White House. The PRC strongly objected to this visit. But the administration rightly went ahead with the visit. Why not President Lee?

The administration's new policy explicitly states that it will not support Taiwan's bid to enter the United Nations, presumably because the PRC would object. I disagree with this rationale. With organizations like the GATT, the United States looked for ways where both Taiwan and China could join. Taiwan agreed to call itself a customs territory and the GATT members, under United States leadership, have worked out an arrangement where the two will likely enter the GATT together. Certainly the United States could be a leader for creative diplomacy in the U.N. arena as well. Other countries would follow our lead, but if the United States does not take the moral high ground, other countries will not want to be bold.

We saw a recent example of this when the Japanese, under intense pressure from Beijing, asked President Lee not to attend the Asian Games, even after the invitation was extended. If the United States were to allow President Lee to visit the United States for an event such as accepting an honorary

degree from Cornell, however, Japan may find the backbone to allow President Lee to attend international sports events.

However, the United States must be willing to risk a little PRC bellowing. The PRC has grown arrogant because every time they yell, we back down. This appeasement only compels them to seek greater concessions. This must stop. We all look forward to the day that the PRC is important because it is governed freely and that it uses its long tradition and culture, not just its immense size, to garner respect. But the PRC is not there yet. Clearly, the United States has important interests in maintaining relations with the mainland, but that does not mean that our foreign policy can be held hostage by the PRC. The United States stands for democracy and freedom. We must not turn our backs on the people of Taiwan. If the administration will not turn United States-Taiwan relations loose, the United States Congress must.

Therefore, Mr. President, along with Senators ROBB, BROWN, PELL, HELMS, and SIMON, I am introducing this resolution to express the sense of the Senate concerning United States relations with Taiwan. It states that it is the sense of the Senate that United States policy toward Taiwan should include 12 policy changes to improve United States-Taiwan relations, many of which I have just mentioned.

Specifically, the United States should welcome the President of the Republic of China on Taiwan and other high-level government officials to visit the United States. Reciprocally, the United States should send cabinet-level officials, including officials from the Departments of State and Defense, to Taiwan on a regular basis. The United States should support a proposal for observer status at the United Nations for Taiwan, and membership in other international organizations.

If the United States takes these and the other steps listed in this resolution, United States policy toward Taiwan will head in the right direction. I urge my colleagues to fully support this resolution.●

#### SENATE RESOLUTION 271—RELATIVE TO THE PROPOSED ORGON OPTION PROJECT

Mr. HATFIELD submitted the following resolution; which was referred to the Committee on Governmental Affairs:

##### S. RES. 271

Whereas Federal, State and local governments are dealing with increasingly complex problems which require the delivery of many kinds of social services at all levels of government;

Whereas historically, Federal programs have addressed the Nation's problems by providing categorical assistance with detailed

requirements relating to the use of funds which are often delivered by State and local governments;

Whereas although the current approach is one method of service delivery, a number of problems exist in the current intergovernmental structure that impede effective delivery of vital services by State and local governments;

Whereas it is more important than ever to provide programs that respond flexibly to the needs of the Nation's States and communities, reduce the barriers between programs that impede Federal, State and local governments' ability to effectively deliver services, encourage the Nation's Federal, State and local governments to be innovative in creating programs that meet the unique needs of the people in their communities while continuing to address national goals, and improve the accountability of all levels of government by better measuring government performance and better meeting the needs of service recipients;

Whereas the State and local governments of Oregon have proposed a pilot project, called the Oregon Option, that would utilize strategic planning and performance-based management that may provide the new models for intergovernmental social service delivery;

Whereas the Oregon Option is a prototype of intergovernmental relations, and it has the potential to completely transform the relationships among Federal, State and local governments by creating a system of intergovernmental service delivery and funding that is based on measurable performance, customer satisfaction, prevention, flexibility, and service integration; and

Whereas Oregon is well prepared to begin work on the Oregon Option, and the project has the potential to dramatically improve the quality of Federal, State and local services to Oregonians; Now, therefore, be it

*Resolved*, That it is the Sense of the Senate that the proposed Oregon Option project has the potential to improve intergovernmental service delivery and that the Federal Government should work cooperatively with the State and local governments of Oregon to fully implement the Oregon Option proposal.

• Mr. HATFIELD. Madam President, a very interesting meeting took place in my State earlier this month. During the week of September 19, over 100 officials from Federal, State and local government met in Portland to begin work on a project called the Oregon Option. I believe this project has the potential to vastly improve intergovernmental service delivery in my State, and today I am submitting a sense of the Senate resolution that urges the Federal Government to continue to be an active partner in this effort.

Oregon proposes a new and revolutionary basis of intergovernmental service delivery. When the Oregon Option is implemented, Federal grants or transfers to State and local government in my State will be based on results rather than procedures. The different governments will agree on a set of outcome-based performance measures, which will be based on the ingenious Oregon Benchmarks model, and on the level of funds that each government would provide to achieve those performance goals. Regulations, at the Federal, State, and local level would be

dramatically streamlined. This pilot project would give Oregon's State and local governments more flexibility in responding to the specific problems faced in the communities of the State in exchange for greater accountability, in the form of performance measures.

Madam President, my State has learned that current Federal programs create disincentives for State and local government to work to prevent human service problems. State and local governments receive billions of Federal dollars to subsidize human service programs, but these governments are penalized—because they lose these Federal funds—if they spend money on programs that prevent people from needing human service payments in the first place. Additionally, federally supported programs at the State and local level tend to be too rule-driven. Millions of dollars end up mired in regulatory process instead of being available for services to people.

The Oregon Option proposal elevates the traditional debate about intergovernmental relations to a new level. This proposal is not about finding more Federal funding for State and local programs; it is also not merely a request for more waivers of Federal regulations. Instead, this proposal recognizes that the current relationship among our governments has focused on procedure and compliance rather than on whether we are serving the citizens of our Nation.

Madam President, I believe the Oregon Option builds on the greatest strengths of Federal, State, and local government. The Federal Government plays a very important role in setting national goals and protecting our Nation's most needy people. However, one of the things I have learned over my career is that States and local governments are better at knowing how to create programs to meet these goals in ways that fit the State or community. State and local governments are the innovators. By using the performance-based and measurable benchmarks, the Oregon Option creates a good balance between protecting the intent and goals of Federal policy and allowing States and local governments the freedom to find appropriate solutions to community problems.

Madam President, the work on this project is just beginning, and the 100 officials who meet in Portland are very committed to this project. At the conclusion of this 3-day meeting, the Federal, State and local participants selected five benchmarks as the starting point for exploring this new intergovernmental relationship, and task forces have formed to begin to outline the important goals and barriers in achieving these benchmarks. I look forward to working with them and with my colleagues in the Senate as this project moves forward. •

## SENATE RESOLUTION 272—AUTHORIZING THE TAKING OF A PHOTOGRAPH IN THE CHAMBER OF THE UNITED STATES SENATE

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution, which was considered and agreed to:

S. RES. 272

*Resolved*, That paragraph 1 of Rule IV of the Rules for the Regulation of the Senate Wing of the United States Capitol (prohibiting the taking of pictures in the Senate Chamber) be temporarily suspended for the sole and specific purpose of permitting an official photograph to be taken of the United States Senate in actual session on a date and time to be announced by the Majority Leader after consultation with the Republican Leader.

SEC. 2. The Sergeant at Arms of the Senate is authorized and directed to make the necessary arrangements therefor, which arrangements shall provide for a minimum of disruption of the Senate proceedings.

### AMENDMENTS SUBMITTED

#### DISTRICT OF COLUMBIA APPROPRIATIONS ACT FOR FISCAL YEAR 1995

##### COHEN (AND OTHERS) AMENDMENT NO. 2594

Mr. COHEN (for himself, Mr. DOLE, Mr. DOMENICI, Mr. BURNS, and Mr. SASSER) proposed an amendment—House amendment to the Senate amendment No. 6—to the bill (H.R. 4649) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said district 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.—

(i) 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.—

(i) 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 (i) 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 (i) and (ii) 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 estab-

lishing 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—

(i) whether to order a health care item or service; or

(ii) 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.**—

(i) **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.

(ii) **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—

(i) 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

(ii) 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 interpre-

tive 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. 04. 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.—Sec-

tion 1128(b)(3)(B) of the Social Security Act (42 U.S.C. 1320a-7(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 pe-

riod 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 District of Columbia appropriations, 1995" 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 District of Columbia appropriations, 1995 (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(a)) 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 \_\_\_01(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 901(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 901.

**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 regarding 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) of the Social Security Act.

**WOFFORD (AND LAUTENBERG)  
AMENDMENT NO. 2595**

Mr. WOFFORD (for himself and Mr. LAUTENBERG) proposed an amendment to amendment No. 2594 proposed by Mr. COHEN to the bill H.R. 4649, supra; as follows:

At the end of the pending amendment, add the following new section:

**SEC. . DISQUALIFICATION OF MEMBERS OF CONGRESS FROM PARTICIPATING IN THE FEDERAL EMPLOYEE HEALTH BENEFITS PROGRAM.**

(a) **FINDINGS.**—The Congress finds that—

(1) the Congress has failed to enact legislation that extends health insurance to all Americans and reduces inflation in health care costs;

(2) Members of Congress may obtain health insurance through the Federal Employees Health Benefits Program, which provides Members of Congress with guaranteed and affordable private health insurance, choice of health plans and choice of doctor, and no exclusions for preexisting medical conditions; and

(3) Members of Congress currently receive on average a 72 percent contribution of their health insurance premiums from their employer, the taxpayers.

(b) **PURPOSE.**—The purpose of this section is to provide that Members of Congress shall not obtain taxpayer-financed health insurance under the favorable conditions established through the Federal Employees Health Benefits Program unless Congress enacts health reform legislation that gives the American people the type of affordable, guaranteed health insurance that Members of Congress have provided for themselves.

(c) **LIMITATION ON FEDERAL EMPLOYEE HEALTH BENEFITS PLAN COVERAGE FOR MEMBERS OF CONGRESS.**—Effective on January 1, 1995.—

(1) the Office of Personnel Management shall—  
 (A) terminate the enrollment of any Member of Congress in a health benefits plan under chapter 89 of title 5, United States Code; and  
 (B) prohibit the original enrollment, re-enrollment, or change of enrollment of any Member of Congress in such a plan; and  
 (2) the Secretary of the Senate and the Clerk of the House of Representatives shall cease making applicable employee withholdings and Government contributions under section 8906 of title 5, United States Code, for any Member of Congress.  
 (d) CONTINUED COVERAGE.—A Member of Congress who is enrolled in a health benefits plan under chapter 89 of title 5, United States Code, on December 31, 1994, may receive continued coverage under section 8905a of such title.

DOMENICI AMENDMENT NO. 2596

Mr. DOMENICI proposed an amendment to the House amendment to the Senate amendment No. 12 to the bill H.R. 4649, supra; as follows:

In the pending amendment, strike "and agency funds;" and insert the following:

DIVISION 2—CONGRESSIONAL REFORM

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Legislative Reorganization Act of 1994".  
 (b) TABLE OF CONTENTS.—The table of contents is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Rulemaking power of Senate and House of Representatives.

TITLE I—REFORM OF THE SENATE

- Sec. 101. Senate committee assignments.
- Sec. 102. Senate committee structure.
- Sec. 103. Senate scheduling.
- Sec. 104. Proxy votes.
- Sec. 105. Senate committee attendance.
- Sec. 106. Senate floor proceedings.
- Sec. 107. Dedication of unexpended funds to deficit reduction.

TITLE II—REFORM OF THE HOUSE OF REPRESENTATIVES

TITLE III—REFORM OF THE CONGRESS

Subtitle A—Budget Process

PART I—BIENNIAL BUDGETING

- Sec. 301. Revision of timetable.
- Sec. 302. Amendments to the Congressional Budget and Impoundment Control Act of 1974.
- Sec. 303. Amendments to title 31, United States Code.
- Sec. 304. Two-year appropriations; title and style of appropriations Acts.
- Sec. 305. Conforming amendments to rules of House of Representatives.
- Sec. 306. Multiyear authorizations.

PART II—ADDITIONAL BUDGET PROCESS CHANGES

- Sec. 311. CBO reports to budget committees.
- Sec. 312. Byrd rule clarifications.
- Sec. 313. GAO assistance with authorizations and oversight.

Subtitle B—Staffing; Administration; and Support Agencies

- Sec. 331. Legislative branch streamlining and restructuring.
- Sec. 332. Authorization of certain congressional instrumentalities.
- Sec. 333. Detailees from congressional support agencies and executive agencies.

Subtitle C—Abolishing the Joint Committees

PART I—JOINT ECONOMIC COMMITTEE

- Sec. 361. Joint Economic Committee.

PART II—JOINT COMMITTEE ON TAXATION

Sec. 362. Joint Committee on Taxation.

PART III—JOINT COMMITTEE ON THE LIBRARY OF CONGRESS

Sec. 363. Joint Committee on the Library of Congress.

PART IV—JOINT COMMITTEE ON PRINTING

- Sec. 371. Joint Committee on Printing.
- Sec. 372. Deputy Public Printers.
- Sec. 373. Annual report to Congress.
- Sec. 374. Superintendent of Documents.
- Sec. 375. Requirement of printing by the Government Printing Office.
- Sec. 376. Report on costs for printing by Federal agencies other than the Government Printing Office.
- Sec. 377. Technical and conforming amendments.

Subtitle D—Legislative and Executive Relations

- Sec. 381. Committee oversight goals and reports for Federal program review.
- Sec. 382. Sunset agency reporting requirements.

TITLE IV—EFFECTIVE DATE

Sec. 401. Effective date; application.  
 SEC. 2. RULEMAKING POWER OF SENATE AND HOUSE OF REPRESENTATIVES.

The provisions of this Act (as applicable) are enacted by the Congress—

(1) insofar as applicable to the Senate, as an exercise of the rulemaking power of the Senate and, to the extent so applicable, those sections are deemed a part of the Standing Rules of the Senate, superseding other individual rules of the Senate only to the extent that those sections are inconsistent with those other individual Senate rules, subject to and with full recognition of the power of the Senate to enact or change any rule of the Senate at any time in its exercise of its constitutional right to determine the rules of its proceedings; and

(2) insofar as applicable to the House of Representatives, as an exercise of the rulemaking power of the House of Representatives, subject to and with full recognition of the power of the House of Representatives to enact or change any rule of the House at any time in its exercise of its constitutional right to determine the rules of its proceedings.

TITLE I—REFORM OF THE SENATE

SEC. 101. SENATE COMMITTEE ASSIGNMENTS.  
 Rule XXIV of the Standing Rules of the Senate is amended to read as follows:

"RULE XXIV

"APPOINTMENT OF COMMITTEES

"Appointments to standing committees and all other committees shall be made by the majority leader and the minority leader for each member of their respective parties. Such appointments shall be subject to any rules adopted by the respective party caucuses."

SEC. 102. SENATE COMMITTEE STRUCTURE.

(a) COMMITTEE AND SUBCOMMITTEE ASSIGNMENTS.—Paragraphs 2, 3, and 4 of rule XXV of the Standing Rules of the Senate are amended to read as follows:

"2. (a) Except as otherwise provided by paragraph 4 of this rule, each of the following standing committees shall consist of the number of Senators set forth in the following table on the line on which the name of that committee appears:

"Committee:	Members
"Appropriations .....	—
"Armed Services .....	—

"Finance .....

"Foreign Relations .....

"(b) Except as otherwise provided by paragraph 4 of this rule, each of the following standing committees shall consist of the number of Senators set forth in the following table on the line on which the name of that committee appears:

"Committee:	Members
"Agriculture, Nutrition, and Forestry .....	—
"Banking, Housing, and Urban Affairs .....	—
"Commerce, Science, and Transportation .....	—
"Energy and Natural Resources .....	—
"Environment and Public Works .....	—
"Governmental Affairs .....	—
"Judiciary .....	—
"Labor and Human Resources ..	—

"(c) The committees listed in this paragraph (except for the Committee on Appropriations) shall not have more than 3 subcommittees.

"3. (a) Except as otherwise provided by paragraph 4 of this rule, each of the following standing committees shall consist of the number of Senators set forth in the following table on the line on which the name of that committee appears:

"Committee:	Members
"Aging .....	—
"Budget .....	—
"Indian Affairs .....	—
"Rules and Administration .....	—
"Small Business .....	—
"Veterans' Affairs .....	—

"(b) The following committee shall consist of the number of Senators set forth in the following table:

"Committee:	Members
"Ethics .....	—
"Intelligence .....	—

"(c) The committees listed in this paragraph shall not have more than 2 subcommittees.

"4. (a) Except as otherwise provided by this paragraph—

"(1) each Senator may serve on only one committee listed in paragraph 2(a) and only two committees listed in paragraph 2; and

"(2) each Senator may serve on only one committee listed in paragraph 3(a).

"(b)(1) Each Senator may serve on not more than two subcommittees of each committee (other than the Committee on Appropriations) listed in paragraph 2 of which he is a member.

"(2) Each Senator may serve on not more than one subcommittee of a committee listed in paragraph 3(a) of which he is a member.

"(3) Notwithstanding subparagraphs (1) and (2), a Senator serving as chairman or ranking minority member of a standing, select, or special committee of the Senate may serve ex officio, without vote, as a member of any subcommittee of such committee.

"(4) No committee of the Senate may establish any subunit of that committee other than a subcommittee, unless the Senate by resolution has given permission therefore.

"(c) By agreement entered into by the majority leader and the minority leader, the membership of one or more standing committees may be increased temporarily from time to time by such number or numbers as may be required to accord to the majority party a majority of the membership of all standing committees. When any such temporary increase is necessary to accord to the majority party a majority of the membership of all standing committees, members of the majority party in such number as may

be required for that purpose may serve as members of three standing committees listed in paragraph 2. No such temporary increase in the membership of any standing committee under this subparagraph shall be continued in effect after the need therefore has ended. No standing committee may be increased in membership under this subparagraph by more than two members in excess of the number prescribed for that committee by paragraph 2 or 3(a).

"(d)(1) No Senator shall serve at any time as chairman of more than one standing, select, or special committee of the Senate.

"(2)(A) A Senator who is serving as the chairman of a committee listed in paragraph 2 or 3(a) may serve at any time as the chairman of only one subcommittee of all committees listed in paragraphs 2 and 3(a) of which he is a member.

"(B) Any Senator other than a Senator described in division (A) may serve as—

"(i) the chairman of only one subcommittee of each committee listed in paragraph 2 or 3(a), of which he is a member; and

"(ii) the chairman of only two subcommittees of the committees listed in paragraphs 2 and 3(a).

"(e) The provisions of this paragraph may only be waived by the Senate by a resolution designating the Senator or Senators receiving the waiver and adopted by an affirmative yea-and-nay vote of the Senators duly chosen and sworn. The resolution shall be offered by the majority leader with the approval of the minority leader. The resolution shall be privileged and no amendment thereto shall be in order. Debate on the resolution shall be limited to one hour, equally divided."

(b) ABOLITION OF REDUCED COMMITTEES.—

(1) NOTIFICATION.—The majority leader and the minority leader shall notify the chairman of the Committee on Rules and Administration not later than 30 days after the convening of a Congress if the number of majority and minority members of a committee of the Senate for such Congress each fall below 50 percent of the number of such members serving on the committee at the end of the 102d Congress.

(2) RESOLUTION ABOLISHING.—The Committee on Rules and Administration shall report to the Senate a resolution abolishing such committee not later than 30 days after receiving notice under paragraph (1). The Senate shall consider and act upon the resolution not later than 20 session days after the resolution is reported.

(3) ADJUSTING OTHER COMMITTEES.—If a committee is abolished by a resolution pursuant to paragraph (2), the majority leader and the minority leader may adjust the membership of other committees to provide for members of the abolished committee.

#### SEC. 103. SENATE SCHEDULING.

Paragraph 3 of rule XXVI of the Standing Rules of the Senate is amended to read as follows:

"3. (a)(1) The provisions of this subparagraph apply to the committees' meetings (including meetings to conduct hearings) held on Tuesday, Wednesday, or Thursday.

"(2) On Tuesdays, only those committees listed in paragraph 2(a) of rule XXV (except the Committee on Appropriations) shall meet for the transaction of business before the committee.

"(3) On Wednesdays, only those committees listed in paragraph 2(b) of rule XXV shall meet for the transaction of business before the committee.

"(4) On Thursdays, only those committees listed in paragraph 3(a) of rule XXV (except

the Committee on the Budget) shall meet for the transaction of business before the committee.

"(5) Subcommittees of a full committee referred to in division (2), (3), or (4) may only meet on the day assigned to the full committee. Subcommittees may not meet when the full committee is meeting.

"(6) No committee of the Senate or any subcommittee thereof may meet, without special leave, on a day not designated for such committee or subcommittee under this subparagraph unless consent therefore has been obtained from the majority leader and the minority leader (or in the event of the absence of either of such leader, from the designee of the leaders). The majority leader or the designee of the majority leader shall announce to the Senate whenever consent has been given under this division and shall state the time and place of such meeting. The right to make such announcement of consent shall have the same priority as the filing of a cloture motion.

"(b) If at least three members of any committee desire that a special meeting of the committee be called by the chairman and subject to the provisions of subparagraph (a), those members may file in the offices of the committee their written request to the chairman for that special meeting. Immediately upon the filing of the request, the clerk of the committee shall notify the chairman of the filing of the request. If, within three calendar days after the filing of the request, the chairman does not call the requested special meeting, to be held within seven calendar days after the filing of the request, a majority of the members of the committee may file in the offices of the committee their written notice that a special meeting of the committee will be held, specifying the date and hour of that special meeting. The committee shall meet on that date and hour. Immediately upon the filing of the notice, the clerk of the committee shall notify all members of the committee that such special meeting will be held and inform them of its date and hour. If the chairman of any such committee is not present at any regular, additional, or special meeting of the committee, the ranking member of the majority party on the committee who is present shall preside at that meeting."

#### SEC. 104. PROXY VOTES.

The paragraph 7 of rule XXVI of the Standing Rules of the Senate is amended by adding at the end thereof the following:

"(d) Notwithstanding any other provision of this paragraph, no vote of any member of any committee may be cast by proxy unless the addition of the vote to the vote totals does not effect the result of the vote totals."

#### SEC. 105. SENATE COMMITTEE ATTENDANCE.

Rule XXVI of the Standing Rules of the Senate is amended by adding at the end thereof the following:

"(14) The chairman of each committee of the Senate shall publish, in the Congressional Record, the committee attendance and voting records of each member of the committee on or before July 1 and December 31."

#### SEC. 106. SENATE FLOOR PROCEEDINGS.

(a) REQUIREMENT OF A THREE-FIFTHS VOTE TO OVERTURN THE CHAIR POST-CLOTURE.—The third undesignated paragraph of paragraph 2 of rule XXII of the Standing Rules of the Senate is amended by adding at the end thereof the following: "Appeals from the decision of the Presiding Officer shall require an affirmative vote of three-fifths of the Senators duly chosen and sworn—except on a

measure or motion to amend the Senate rules, in which case the necessary affirmative vote shall be two-thirds of the Senators present and voting."

(b) NONDEBATABLE MOTION TO PROCEED.—Paragraph 2 of rule VIII of the Standing Rules of the Senate is amended by striking the period at the end thereof and inserting the following: "; except those motions to proceed made by the majority leader, or his designee, on which there shall be a time limitation for debate of two hours equally divided between the majority and the minority leaders, or their designees. Any such motion to proceed, by the majority leader, or any other Senator, to any motion, resolution, or proposal to change any of the Standing Rules of the Senate shall be debatable."

(c) CHARGING QUORUM CALLS AGAINST AN INDIVIDUAL'S TIME UNDER CLOTURE.—The first sentence of the third undesignated paragraph of paragraph 2 of rule XXII of the Standing Rules of the Senate is amended by striking the period and inserting the following: "; with the time consumed by quorum calls being charged to the Senator who requested the call of the quorum."

(d) DISPENSING WITH THE READING OF CONFERENCE REPORTS.—Paragraph 1 of rule XXVIII of the Standing Rules of the Senate is amended by striking "and shall be determined without debate." and inserting the following: "notwithstanding a request for the reading of the conference report (if such report is printed and available one day prior to the motion to consider), and shall be determined without debate."

(e) SENSE OF THE SENATE RESOLUTIONS.—Rule XV of the Standing Rules of the Senate is amended by inserting at the end thereof the following:

"6. On a point of order made by any Senator, no amendment expressing the sense of the Senate or the sense of the Congress, or an amendment to such amendment, shall be received unless the amendment is signed by at least 10 Senators."

#### SEC. 107. DEDICATION OF UNEXPENDED FUNDS TO DEFICIT REDUCTION.

(a) INTERIM RULES.—Not later than January 1, 1995 and each year thereafter through 1998, the Secretary of the Senate shall certify and publish in the Congressional Record a list identifying each member of the Senate who has used less than the amount allocated to the personal office of the member during the preceding fiscal year and the amount of such unused allocation.

(b) DEDICATION OF UNEXPENDED FUNDS BEGINNING WITH FISCAL YEAR 1999.—Not later than January 1, 1999 and each year thereafter, the Secretary of the Senate shall notify each Member of the Senate of the difference between the total obligations incurred by his personal office and the allocations for administrative expenses, legislative assistants, and clerk hire available to the Member for the preceding fiscal year. Within 30 days after the date of such notification, any Member pursuant to this subsection may direct the Secretary of the Senate to submit a rescission request for such amount from unobligated balances for that fiscal year.

(c) PERFORMANCE REVIEW GUIDANCE.—In conducting the performance review required by section 331, the Senate committees shall include a plan to reduce the disparity between appropriations and allocations to Members.

**TITLE II—REFORM OF THE HOUSE OF REPRESENTATIVES**

**TITLE III—REFORM OF THE CONGRESS**

**Subtitle A—Budget Process**

**PART I—BIENNIAL BUDGETING**

**SEC. 301. REVISION OF TIMETABLE.**

Section 300 of the Congressional Budget Act of 1974 (2 U.S.C. 631) is amended to read as follows:

**“First Session**

“On or before:  
 First Monday in February .....  
 February 15 .....  
 Within 6 weeks after budget submission .....  
 April 1 .....  
 April 15 .....  
 May 15 .....  
 June 10 .....  
 June 15 .....  
 June 30 .....  
 October 1 .....

Action to be completed:  
 President submits budget recommendations.  
 Congressional Budget Office submits report to Budget Committees.  
 Committees submit views and estimates to Budget Committees.  
 Budget Committees report concurrent resolution on the biennial budget.  
 Congress completes action on concurrent resolution on the biennial budget.  
 Biennial appropriation bills may be considered in the House.  
 House Appropriations Committee reports last biennial appropriation bill.  
 Congress completes action on reconciliation legislation.  
 Congress completes action on biennial appropriation bills.  
 Biennium begins.

**“Second Session**

“On or before:  
 May 15 .....  
 The last day of the session .....

Action to be completed:  
 Congressional Budget Office submits report to Budget Committees.  
 Congress completes action on bills and resolutions authorizing a new budget authority for the succeeding biennium.

“(b) SPECIAL RULE.—In the case of any session of Congress that begins in any year immediately following a leap year and during which the term of a President (except a President who succeeds himself) begins, the following dates shall supersede those set forth in subsection (a):

- “(1) First Monday in April, President submits budget recommendations.
- “(2) April 20, committees submit views and estimates to Budget Committees.
- “(3) May 15, Budget Committees report concurrent resolution on the biennial budget.
- “(4) June 1, Congress completes action on concurrent resolution on the biennial budget.
- “(5) July 1, biennial appropriation bills may be considered in the House.
- “(6) July 20, House Appropriations Committee reports last biennial appropriation bill.”

**SEC. 302. AMENDMENTS TO THE CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974.**

(a) DECLARATION OF PURPOSE.—Section 2(2) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 621(2)) is amended by striking “each year” and inserting “biennially”.

(b) DEFINITIONS.—  
 (1) Section 3(4) of such Act (2 U.S.C. 622(4)) is amended by striking “fiscal year” each place it appears and inserting “biennium”.

(2) Section 3 of such Act (2 U.S.C. 622) is further amended by adding at the end the following new paragraph:

“(12) The term ‘biennium’ means the period of 2 consecutive fiscal years beginning on October 1 of any odd-numbered year.”

(c) BIENNIAL CONCURRENT RESOLUTION ON THE BUDGET.—

(1) Section 301(a) of such Act (2 U.S.C. 632(a)) is amended—

(A) by striking “April 15 of each year” and inserting “April 15 of each odd-numbered year”;

(B) by striking “the fiscal year beginning on October 1 of such year” the first place it appears and inserting “the biennium beginning on October 1 of such year”;

(C) by striking “the fiscal year beginning on October 1 of such year” the second place it appears and inserting “each fiscal year in such period”;

(D) by striking “and planning levels for each of the two ensuing fiscal years” and inserting “and the appropriate levels for each of the 3 ensuing fiscal years”;

(E) in paragraph (6) by striking “for the fiscal year of the resolution and each of the 4” and inserting “for the biennium of the resolution and each of the 3”; and

(F) in paragraph (7) by striking “for the fiscal year of the resolution and each of the 4” and inserting “for the biennium of the resolution and each of the 3”.

(2) Section 301(b) of such Act (2 U.S.C. 632(b)) is amended—

(A) in the matter preceding paragraph (1) by inserting “for a biennium” after “concurrent resolution on the budget”; and

(B) in paragraph (3) by striking “for such fiscal year” and inserting “for either fiscal year in such biennium”.

(3) Section 301(d) of such Act (2 U.S.C. 632(d)) is amended by inserting “(or, if applicable, as provided by section 300(b))” after “United States Code”.

(4) Section 301(e) of such Act (2 U.S.C. 632(e)) is amended—

(A) in the first sentence by striking “fiscal year” and inserting “biennium”;

(B) by inserting between the second and third sentences the following new sentence: “On or before April 1 of each odd-numbered year (or, if applicable, as provided by section

300(b)) the Committee on the Budget of each House shall report to its House the concurrent resolution on the budget referred to in subsection (a) for the biennium beginning on October 1 of that year.”;

(C) in paragraph (6) by striking “such fiscal year” and inserting “the first fiscal year of such biennium.”; and

(D) in paragraph (10) by striking “the fiscal year covered” and inserting “the biennium covered”.

(5) Section 301(f) of such Act (2 U.S.C. 632(f)) is amended by striking “fiscal year” each place it appears and inserting “biennium”.

(6) Section 301(g)(1) of such Act (U.S.C. 632(g)(1)) is amended by striking “for a fiscal year” and inserting “for a biennium”.

(7) The section heading of section 301 of such Act is amended by striking “annual” and inserting “biennial”.

(8) The table of contents set forth in section 1(b) of such Act is amended by striking “Annual” in the item relating to section 301 and inserting “Biennial”.

(d) SECTION 302 COMMITTEE ALLOCATIONS.—Section 302(a)(2) of such Act (2 U.S.C. 633(a)(2)) is amended by striking “fiscal year of the resolution and each of the 4 succeeding fiscal years” and inserting “the biennium of the resolution and each of the 3 succeeding fiscal years”.

(e) SECTION 303 POINT OF ORDER.—

(1) Section 303(a) of such Act (2 U.S.C. 634(a)) is amended by striking “fiscal year” each place it appears and inserting “biennium”.

(2) Section 303(b) of such Act (2 U.S.C. 634(b)) is amended—

(A) in subparagraphs (A) and (B) of paragraph (1) by striking “the fiscal year” each place it appears and inserting “biennium”;

(B) in paragraph (1) by striking "any calendar year" and inserting "any odd-numbered calendar year (or, if applicable, as provided by section 300(b))"; and

(C) by striking paragraph (2), striking "(1)", and redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively.

(f) PERMISSIBLE REVISIONS OF CONCURRENT RESOLUTIONS ON THE BUDGET.—Section 304(a) of such Act (2 U.S.C. 635) is amended—

(1) by striking "fiscal year" the first two places it appears and inserting "biennium";

(2) by striking "for such fiscal year"; and

(3) by inserting before the period "for such biennium".

(g) PROCEDURES FOR CONSIDERATION OF BUDGET RESOLUTIONS.—Section 305(a)(3) of such Act (2 U.S.C. 636(b)(3)) is amended by striking "fiscal year" and inserting "biennium".

(h) REPORTS AND SUMMARIES OF CONGRESSIONAL BUDGET ACTIONS.—Section 308(a)(1)(A) of such Act (2 U.S.C. 639(a)(1)) is amended by striking "fiscal year (or fiscal years)" and inserting "biennium".

(i) COMPLETION OF ACTION ON REGULAR APPROPRIATION BILLS.—Section 309 of such Act (2 U.S.C. 640) is amended—

(1) by inserting "of any odd-numbered calendar year" after "July";

(2) by striking "annual" and inserting "regular"; and

(3) by striking "fiscal year" and inserting "biennium".

(j) RECONCILIATION PROCESS.—

(1) Section 310(a) of such Act (2 U.S.C. 641(a)) is amended—

(A) by striking "any fiscal year" in the matter preceding paragraph (1) and inserting "any biennium";

(B) in paragraph (1) by striking "such fiscal year" each place it appears and inserting "each fiscal year in such biennium"; and

(C) in paragraph (2) by inserting "for each fiscal year in such biennium" after "revenues".

(2) Section 310(f) of such Act (2 U.S.C. 641(f)) is amended by striking "for such fiscal year" and inserting "for such biennium".

(k) SECTION 311 POINT OF ORDER.—

(1)(A) Section 311(a)(1) of such Act (2 U.S.C. 642(a)) is amended—

(i) by striking "for a fiscal year" and inserting "for a biennium";

(ii) by striking "such fiscal year" the first place it appears and inserting "either fiscal year in such biennium";

(iii) by striking "during such fiscal year" and inserting "during either fiscal year in such biennium";

(iv) by striking "revenues for such fiscal year" and inserting "revenues for a fiscal year"; and

(v) by striking "budget for such fiscal year" and inserting "budget for either fiscal year in such biennium".

(B) Section 311(a)(2)(A) of such Act is amended—

(i) by striking "for the first" and inserting "for either";

(ii) by striking "covering such fiscal year" and inserting "covering such biennium";

(iii) by striking "the first fiscal year covered" and inserting "either fiscal year in such biennium covered";

(iv) by striking "the first fiscal year plus" and inserting "the biennium plus"; and

(v) by striking "4 fiscal years" and inserting "3 fiscal years".

(2) Section 311(b) of such Act (2 U.S.C. 642(b)) is amended by striking "such fiscal year" the second place it appears and inserting "either fiscal year in such biennium".

(1) BILLS PROVIDING NEW SPENDING AUTHORITY.—Section 401(b)(2) of such Act (2 U.S.C. 651(b)(2)) is amended by striking "for such fiscal year" the second place it appears and inserting "for the biennium in which such fiscal year occurs".

(m) DATE OF ADJUSTING ALLOCATIONS.—Section 603(a) of such Act (2 U.S.C. 665b) is amended by inserting after "April 15" the following "(or if section 300(b) applies by June 15th)".

#### SEC. 303. AMENDMENTS TO TITLE 31, UNITED STATES CODE.

(a) DEFINITION.—Section 1101 of title 31, United States Code, is amended by adding at the end thereof the following new paragraph:

"(3) 'biennium' has the meaning given to such term in paragraph (12) of section 3 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(12))."

(b) BUDGET CONTENTS AND SUBMISSION TO THE CONGRESS.—

(1) So much of section 1105(a) of title 31, United States Code, as precedes paragraph (1) thereof is amended to read as follows:

"(a) On or before the first Monday in February of each odd-numbered year (or, if applicable, as provided by section 300(b) of the Congressional Budget Act of 1974), beginning with the One Hundred Fourth Congress, the President shall transmit to the Congress, the budget for the biennium beginning on October 1 of such calendar year. The budget transmitted under this subsection shall include a budget message and summary and supporting information. The President shall include in each budget the following:—

(2) Section 1105(a)(5) of title 31, United States Code, is amended by striking "the fiscal year for which the budget is submitted and the 4 fiscal years after that year" and inserting "each fiscal year in the biennium for which the budget is submitted and in the succeeding 3 years".

(3) Section 1105(a)(6) of title 31, United States Code, is amended by striking "the fiscal year for which the budget is submitted and the 4 fiscal years after that year" and inserting "each fiscal year in the biennium for which the budget is submitted and in the succeeding 3 years".

(4) Section 1105(a)(9)(C) of title 31, United States Code, is amended by striking "the fiscal year" and inserting "each fiscal year in the biennium".

(5) Section 1105(a)(12) of title 31, United States Code, is amended—

(A) by striking "the fiscal year" in subparagraph (A) and inserting "each fiscal year in the biennium"; and

(B) by striking "4 fiscal years after that year" in subparagraph (B) and inserting "3 fiscal years immediately following the second fiscal year in such biennium".

(6) Section 1105(a)(13) of title 31, United States Code, is amended by striking "the fiscal year" and inserting "each fiscal year in the biennium".

(7) Section 1105(a)(14) of title 31, United States Code, is amended by striking "that year" and inserting "each fiscal year in the biennium for which the budget is submitted".

(8) Section 1105(a)(16) of title 31, United States Code, is amended by striking "the fiscal year" and inserting "each fiscal year in the biennium".

(9) Section 1105(a)(17) of title 31, United States Code, is amended—

(A) by striking "the fiscal year following the fiscal year" and inserting "each fiscal year in the biennium following the biennium";

(B) by striking "that following fiscal year" and inserting "each such fiscal year"; and

(C) by striking "fiscal year before the fiscal year" and inserting "biennium before the biennium".

(10) Section 1105(a)(18) of title 31, United States Code, is amended—

(A) by striking "the prior fiscal year" and inserting "each of the 2 most recently completed fiscal years";

(B) by striking "for that year" and inserting "with respect to that fiscal year"; and

(C) by striking "in that year" and inserting "in that fiscal year".

(11) Section 1105(a)(19) of title 31, United States Code, is amended—

(A) by striking "the prior fiscal year" and inserting "each of the 2 most recently completed fiscal years";

(B) by striking "for that year" and inserting "with respect to that fiscal year"; and

(C) by striking "in that year" each place it appears and inserting "in that fiscal year".

(c) ESTIMATED EXPENDITURES OF LEGISLATIVE AND JUDICIAL BRANCHES.—Section 1105(b) of title 31, United States Code, is amended by striking "each year" and inserting "each even-numbered year".

(d) RECOMMENDATIONS TO MEET ESTIMATED DEFICIENCIES.—Section 1105(c) of title 31, United States Code, is amended—

(1) by striking "fiscal year for" each place it appears and inserting "biennium for";

(2) by inserting "or current biennium, as the case may be," after "current fiscal year"; and

(3) by striking "that year" and inserting "that period".

(e) STATEMENT WITH RESPECT TO CERTAIN CHANGES.—Section 1105(d) of title 31, United States Code, is amended by striking "fiscal year" and inserting "biennium".

(f) CAPITAL INVESTMENT ANALYSIS.—Section 1105(e) of title 31, United States Code, is amended by striking "ensuing fiscal year" and inserting "biennium to which such budget relates".

(g) SUPPLEMENTAL BUDGET ESTIMATES AND CHANGES.—

(1) Section 1106(a) of title 31, United States Code, is amended—

(A) in the matter preceding paragraph (1) by striking "fiscal year" and inserting "biennium";

(B) in paragraph (1) by striking "that fiscal year" and inserting "each fiscal year in such biennium";

(C) in paragraph (2) by striking "4 fiscal years following the fiscal year" and inserting "3 fiscal years following the biennium"; and

(D) by striking "fiscal year" in paragraph (3) and inserting "biennium".

(2) Section 1106(b) of title 31, United States Code, is amended by striking "the fiscal year" and inserting "each fiscal year in the biennium".

(h) CURRENT PROGRAMS AND ACTIVITIES ESTIMATES.—

(1) Section 1109(a) of title 31, United States Code, is amended—

(A) by striking "On or before the first Monday after January 3 of each year (on or before February 5 in 1994)" and inserting "At the same time the budget required by section 1105 is submitted for a biennium"; and

(B) by striking "the following fiscal year" and inserting "each fiscal year of such period".

(2) Section 1109(b) of title 31, United States Code, is amended by striking "March 1 of each year" and inserting "within 6 weeks of the President's budget submission for each odd-numbered year (or, if applicable, as provided by section 300(b) of the Congressional Budget Act of 1974)".

(i) YEAR-AHEAD REQUESTS FOR AUTHORIZING LEGISLATION.—Section 1110 of title 31, United States Code, is amended—

(1) by striking "fiscal year" and inserting "biennium (beginning on or after October 1, 1995)"; and

(2) by striking "year before the year in which the fiscal year begins" and inserting "second calendar year preceding the calendar year in which the biennium begins".

(j) BUDGET INFORMATION ON CONSULTING SERVICES.—Section 1114 of title 31, United States Code, is amended—

(1) by striking "The" each place it appears and inserting "For each biennium beginning with the biennium beginning on October 1, 1994, the"; and

(2) by striking "each year" each place it appears.

**SEC. 304. TWO-YEAR APPROPRIATIONS; TITLE AND STYLE OF APPROPRIATIONS ACTS.**

Section 105 of title 1, United States Code, is amended to read as follows:

**§ 105. Title and style of appropriations Acts**

"(a) The style and title of all Acts making appropriations for the support of the Government shall be as follows: 'An Act making appropriations (here insert the object) for the biennium ending September 30 (here insert the odd-numbered calendar year)'.

"(b) All Acts making regular appropriations for the support of the Government shall be enacted for a biennium and shall specify the amount of appropriations provided for each fiscal year in such period.

"(c) For purposes of this section, the term 'biennium' has the same meaning as in section 3(11) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(11))."

**SEC. 305. CONFORMING AMENDMENTS TO RULES OF HOUSE OF REPRESENTATIVES.**

(a) Clause 4(a)(1)(A) of rule X of the Rules of the House of Representatives is amended by inserting "odd-numbered" after "each".

(b) Clause 4(a)(2) of rule X of the Rules of the House of Representatives is amended by striking "such fiscal year" and inserting "the biennium in which such fiscal year begins".

(c)(1) Clause 4(b)(2) of rule X of the Rules of the House of Representatives is amended by striking "concurrent resolution on the budget for each fiscal year" and inserting "concurrent resolution on the budget required under section 301(a) of the Congressional Budget Act of 1974 for each biennium".

(2) Clause 4(b) of rule X of the Rules of the House of Representatives is amended by striking "and" at the end of subparagraph (4), by striking the period and inserting "; and" at the end of subparagraph (5), and by adding at the end the following new subparagraph:

"(6) to use the second year of each biennium to study issues with long-term budgetary and economic implications, which would include—

"(A) holding hearings to receive testimony from committees of jurisdiction to identify problem areas and to report on the results of oversight; and

"(B) by January 1 of each odd-numbered year, issuing a report to the Speaker which identifies the key issues facing the Congress in the next biennium."

(d) Clause 4(f) of rule X of the Rules of the House of Representatives is amended by striking "annually" each place it appears and inserting "biennially".

(e) Clause 4(g) of rule X of the Rules of the House of Representatives is amended—

(1) by striking "March 15 of each year" and inserting "March 15 of each odd-numbered

year (or, if applicable, as provided by section 300(b) of the Congressional Budget Act of 1974)";

(2) by striking "fiscal year" the first place it appears and inserting "biennium"; and

(3) by striking "that fiscal year" and inserting "each fiscal year in such ensuing biennium".

(f) Clause 4(h) of rule X of the Rules of the House of Representatives is amended by striking "fiscal year" and inserting "biennium".

(g) Subdivision (C) of clause 2(1)(1) of rule XI of the Rules of the House of Representatives is repealed.

(h) Clause 4(a) of rule XI of the Rules of the House of Representatives is amended by striking "fiscal year if reported after September 15 preceding the beginning of such fiscal year" and inserting "biennium if reported after August 1 of the year in which such biennium begins".

(i) Clause 2 of rule XLIX of the Rules of the House of Representatives is amended by striking "fiscal year" and inserting "biennium".

**SEC. 306. MULTIYEAR AUTHORIZATIONS.**

(a) IN GENERAL.—Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following new section:

**"AUTHORIZATIONS OF APPROPRIATIONS**

"SEC. 314. It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, or conference report that authorizes appropriations for a period of less than 2 fiscal years, unless the program, project, or activity for which the funds are to be spent is of less than 2 years duration."

(b) CONFORMING AMENDMENT.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after the item relating to section 313 the following new item:

"Sec. 314. Authorizations of appropriations."

**PART II—ADDITIONAL BUDGET PROCESS CHANGES**

**SEC. 311. CBO REPORTS TO BUDGET COMMITTEES.**

Section 308 of the Congressional Budget Act of 1974 is amended by—

(1) redesignating subsection (c) as subsection (d); and

(2) inserting after subsection (b) the following:

"(c) QUARTERLY BUDGET REPORTS.—The Congressional Budget Office shall, as soon as practicable after the completion of each quarter of the fiscal year, prepare an analysis comparing revenues, spending, and the deficit for the current fiscal year to assumptions included in the Congressional budget resolution. In preparing this report, the Congressional Budget Office shall combine actual budget figures to date with projected revenue and spending for the balance of the fiscal year. The Congressional Budget Office shall include any other information in this report that it deems useful for a full understanding of the current fiscal position of the Federal Government. The reports mandated by this subsection shall be transmitted by the Director to the Senate and House Committees on the Budget, and the Congressional Budget Office shall make such reports available to any interested party upon request."

**SEC. 312. BYRD RULE CLARIFICATIONS.**

(a) PERMANENT EXTENSION OF BYRD RULE.—The first sentence of section 904(c) and the second sentence of section 904(d) of the Con-

gressional Budget Act of 1974 are amended by inserting "313," after "306,".

(b) BYRD RULE CLARIFICATIONS.—Section 313 of the Congressional Budget Act of 1974 is amended—

(1) in subsection (b)(1)(A), by striking "including changes in outlays and revenues brought about by changes in the terms and conditions under which outlays are made or revenues are required to be collected";

(2) by redesignating subsections (d) and (e) as subsections (e) and (f);

(3) by redesignating subsection (c), the second time it appears, as subsection (d) and inserting before "When" the following:

"(c) APPLICATION TO CONFERENCE REPORTS.—"; and

(4) in subsection (d) (as redesignated by paragraph (3))—

(A) in paragraph (1), by striking "and"; and  
(B) by redesignating paragraph (2) as paragraph (3) and inserting after paragraph (1) the following:

"(2)(A) a point of order being made against any provision producing an increase in outlays in any fiscal year shall be considered extraneous if the net effect of provisions affecting outlays reported by the conferees would cause a Senate committee to fail to achieve its outlay instruction, and

"(B) a point of order being made against any provision producing a reduction in revenues in any fiscal year shall be considered extraneous if the net effect of provisions affecting revenues reported by the conferees would cause a Senate committee to fail to achieve its revenue instruction, and"

**SEC. 313. GAO ASSISTANCE WITH AUTHORIZATIONS AND OVERSIGHT.**

Section 717 of title 31, United States Code, is amended by adding at the end thereof the following:

"(e) During the second session of each Congress, the Comptroller General shall give priority to requests from Congress for audits and evaluations of Government programs and activities."

**Subtitle B—Staffing; Administration; and Support Agencies**

**SEC. 331. LEGISLATIVE BRANCH STREAMLINING AND RESTRUCTURING.**

(a) PERFORMANCE REVIEW.—Not later than one year after the date of enactment of this Act, the Committee on Rules and Administration and the Committee on Appropriations of the Senate and the appropriate committees or task force of the House of Representatives shall submit to the leadership of their respective Houses a performance review together with any necessary implementing legislation for achieving efficiencies, economies, and reductions in the total number of full time equivalent positions in the legislative branch comparable to those proposed and implemented for the executive branch in the President's National Performance Review, submitted September 1993.

(b) REDUCTION BASE.—The reductions required by this section shall be made from a base of the total number of full time equivalent positions in the legislative branch on the date of introduction of S. Con. Res. 57 (102d Congress, 1st Session), the concurrent resolution establishing the Joint Committee on the Organization of Congress.

**SEC. 332. AUTHORIZATION OF CERTAIN CONGRESSIONAL INSTRUMENTALITIES.**

(a) IN GENERAL.—It is the intent of Congress that the General Accounting Office, Congressional Budget Office, Library of Congress, Government Printing Office, and Office of Technology Assessment shall be authorized for 8 fiscal years in accordance with this section.

## (b) CYCLES.—

(1) GENERAL ACCOUNTING OFFICE.—The General Accounting Office shall be authorized by the enactment every eighth year beginning with fiscal year 1997 of an Act to authorize appropriations for that office for the next 8 fiscal years.

(2) LIBRARY OF CONGRESS.—The Library of Congress shall be authorized by the enactment every eighth year beginning with fiscal year 1999 of an Act to authorize appropriations for that office for the next 8 fiscal years.

(3) GOVERNMENT PRINTING OFFICE.—The Government Printing Office shall be authorized by the enactment every eighth year beginning with fiscal year 2001 of an Act to authorize appropriations for that office for the next 8 fiscal years.

(4) CONGRESSIONAL BUDGET OFFICE AND OFFICE OF TECHNOLOGY AND ASSESSMENT.—The Congressional Budget Office and Office of Technology Assessment shall be authorized by the enactment every eighth year beginning with fiscal year 2003 of an Act to authorize appropriations for those offices for the next 8 fiscal years.

## (c) JURISDICTION.—

(1) IN GENERAL.—The Committee on Rules and Administration of the Senate and the appropriate committee in the House of Representatives shall have jurisdiction over the authorizations required by this section.

(2) OVERSIGHT.—In reauthorizing instrumentalities as required by this section, the committees referred to in paragraph (1) shall seek to—

(A) eliminate duplication between instrumentalities;

(B) consolidate activities; and

(C) increase efficiency within instrumentalities.

(d) COST ACCOUNTING REQUIREMENTS.—Effective on January 1, 1995, each instrumentality of the Congress providing support to the Congress shall prepare by not later than December 31 of each year an annual report detailing the cost to the instrumentality of providing support to each committee of the Senate and Senator. The report shall be submitted to the Secretary of the Senate and included in the Secretary's semiannual report.

(e) VOUCHER ALLOCATION SYSTEM.—The Committee on Rules and Administration of the Senate and the appropriate committee of the House of Representatives shall study and report to their respective Houses as a part of their authorization responsibilities under subsection (c) concerning the feasibility of establishing a voucher allocation system for committees using the services of instrumentalities of Congress.

## (f) REPEALERS.—

(1) GENERAL ACCOUNTING OFFICE.—Section 736 of title 31, United States Code, is repealed.

(2) CONGRESSIONAL BUDGET OFFICE.—Section 201(f) of the Congressional Budget Act of 1974 (2 U.S.C. 601(f)) is repealed.

(3) LIBRARY OF CONGRESS.—Any authorization of appropriations for the Library of Congress in effect on the effective date of this paragraph is repealed.

(4) GOVERNMENT PRINTING OFFICE.—Any authorization of appropriations for the Government Printing Office in effect on the effective date of this paragraph is repealed.

(5) OFFICE OF TECHNOLOGY ASSESSMENT.—Section 12 of the Technology Assessment Act of 1972 (2 U.S.C. 481) is repealed.

(6) EFFECTIVE DATE.—Paragraphs (1) and (2) shall take effect with respect to fiscal years beginning with fiscal year 1997. Paragraphs (3), (4), and (5) shall take effect with respect

to fiscal years beginning with fiscal year 1999.

**SEC. 333. DETAILEES FROM CONGRESSIONAL SUPPORT AGENCIES AND EXECUTIVE AGENCIES.**

(a) REIMBURSEMENT.—The cost of the service on detail to a committee of the Senate or House of Representatives or the personal office of a member of the Senate or House of Representatives of a person who is regularly employed by an instrumentality of Congress or an executive agency shall be fully reimbursed to the instrumentality of Congress or executive agency by the committee or personal office that receives the service.

(b) DEFINITION.—In this section, the term "instrumentality of Congress" means—

- (1) the General Accounting Office;
- (2) the Congressional Budget Office;
- (3) the Library of Congress;
- (4) the Government Printing Office; and
- (5) the Office of Technology Assessment.

**Subtitle C—Abolishing the Joint Committees****PART I—JOINT ECONOMIC COMMITTEE****SEC. 361. JOINT ECONOMIC COMMITTEE.**

(a) ABOLITION.—Effective beginning with the 104th Congress, the Joint Economic Committee is abolished.

(b) TRANSFER OF RESPONSIBILITY.—The Committee on the Budget and the appropriate committee of the House of Representatives shall be responsible for review of the Economic Report of the President required by section 103 of the Full Employment and Balanced Growth Act of 1978 (15 U.S.C. 1022).

**PART II—JOINT COMMITTEE ON TAXATION****SEC. 362. JOINT COMMITTEE ON TAXATION.**

(a) ABOLITION.—Effective beginning with the 104th Congress, the Joint Committee on Taxation is abolished.

(b) TRANSFER OF RESPONSIBILITY.—Section 202(b) of the Congressional Budget Act of 1974 is amended by—

(1) designating the text of such subsection as paragraph (1); and

(2) adding at the end thereof the following: "(2) The Office shall provide technical guidance to the Committee on Finance and the Committee on Ways and Means with respect to taxation and tax legislation. The Office shall perform the responsibilities formerly assigned to the Joint Committee on Taxation upon the abolishment of such committee."

(c) COMMITTEE TRANSFER OVERSIGHT.—The Committee on Rules and Administration and the appropriate committee of the House of Representatives shall report to the Congress a plan for the transfer of responsibilities and staff as required by this section.

**PART III—JOINT COMMITTEE ON THE LIBRARY OF CONGRESS****SEC. 363. JOINT COMMITTEE ON THE LIBRARY OF CONGRESS.**

(a) ABOLITION.—Effective beginning with the 104th Congress, the Joint Committee on the Library of Congress is abolished.

(b) TRANSFER OF RESPONSIBILITY.—Effective beginning with the 104th Congress, the responsibilities of the Joint Committee on the Library of Congress shall be performed by the Committee on Rules and Administration of the Senate and the appropriate committee of the House of Representatives.

**PART IV—JOINT COMMITTEE ON PRINTING****SEC. 371. JOINT COMMITTEE ON PRINTING.**

(a) ABOLITION.—Chapter 1 of title 44, United States Code, is repealed.

(b) TRANSFER OF RESPONSIBILITY.—Subject to subsection (c), all duties, authorities, re-

sponsibilities, and functions performed by the Joint Committee on Printing before the effective date of this part shall be performed by the Public Printer on and after such date.

(c) OVERSIGHT FUNCTIONS.—All legislative oversight jurisdiction, duties, authorities, responsibilities, and functions performed by the Joint Committee on Printing before the effective date of this part shall be performed by the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives on and after such date.

(d) REFERENCES.—Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to the Joint Committee on Printing shall be deemed to refer to the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives, or the Public Printer, as appropriate.

**SEC. 372. DEPUTY PUBLIC PRINTERS.**

(a) IN GENERAL.—Section 302 of title 44, United States Code, is amended to read as follows:

**"§ 302. Deputy Public Printers; appointments; duties**

"(a)(1) The President of the United States shall nominate and, by and with the advice and consent of the Senate, appoint the—

"(A) Legislative Deputy Public Printer who shall also serve as the Superintendent of Documents;

"(B) Executive Deputy Public Printer; and

"(C) Judicial Deputy Public Printer.

"(2) Each Deputy Printer shall be a suitable person, who is a practical printer and versed in the art of bookbinding.

"(b) In addition to any other duties required by the Public Printer, the Legislative Deputy Public Printer shall perform all duties of the Government Printing Office relating to the Legislative branch, including all applicable duties performed under—

"(1) chapter 7 relating to Congressional printing and binding;

"(2) chapter 9 relating to the Congressional Record;

"(3) chapter 13 relating to particular reports and documents, including sections 1326 and 1332;

"(4) chapter 17 relating to the distribution and sale of public documents;

"(5) chapter 19 relating to the Depository Library Program;

"(6) chapter 27 relating to Advisory Committee on Records of Congress; and

"(7) section 3511 relating to services performed for the Federal Information Locator System.

"(c) In addition to any other duties required by the Public Printer, the Executive Deputy Public Printer shall perform all duties of the Government Printing Office relating to the Executive branch, including all applicable duties performed under—

"(1) chapter 5 relating to the production and procurement of printing and binding;

"(2) chapter 11 relating to Executive printing and binding;

"(3) chapter 13 relating to particular reports and documents; and

"(4) chapters 15, 21, 22, 23, 25, 29, 31, 33, 35, 37, and 39.

"(d) In addition to any other duties required by the Public Printer, the Judicial Deputy Public Printer shall perform all duties of the Government Printing Office relating to the Judicial branch, including all applicable duties performed under—

"(1) chapter 11 relating to Judiciary printing and binding, including printings under section 1120; and

"(2) chapter 13 relating to particular reports and documents.

"(e) The Public Printer, in consultation with the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives, shall determine the respective duties of the Deputy Public Printers under this section."

(b) COMPENSATION.—Section 303 of title 44, United States Code, is amended in the second sentence by striking out "the Deputy Public Printer" and inserting in lieu thereof "each of the Deputy Public Printers".

(c) SUCCESSION.—Section 304 of title 44, United States Code, is amended by striking out "the Deputy Public Printer" and inserting in lieu thereof "one of the Deputy Public Printers designated by the President".

(d) TECHNICAL AND CONFORMING AMENDMENTS.—(1) The table of sections for chapter 3 of title 44, United States Code, is amended by striking out the item relating to section 302 and inserting in lieu thereof the following new item:

"302. Deputy Public Printers; appointments; duties."

(2) Section 313 of title 44, United States Code, is amended—

(A) in the first sentence—

(i) by striking out "Deputy Public Printer" and inserting in lieu thereof "3 Deputy Public Printers"; and

(ii) by striking out "Joint Committee on Printing" and inserting in lieu thereof "Committee on Rules and Administration of the Senate and the Committee on Administration of the House of Representatives";

(B) in the second sentence—

(i) by striking out "Deputy Public Printer" and inserting in lieu thereof "3 Deputy Public Printers"; and

(ii) by striking out "Joint Committee on Printing" and inserting in lieu thereof "Committee on Rules and Administration of the Senate and the Committee on Administration of the House of Representatives"; and

(C) in the third sentence—

(i) by striking out "Deputy Public Printer" and inserting in lieu thereof "3 Deputy Public Printers"; and

(ii) by striking out "Joint Committee on Printing" and inserting in lieu thereof "Committee on Rules and Administration of the Senate and the Committee on Administration of the House of Representatives".

#### SEC. 373. ANNUAL REPORT TO CONGRESS.

Section 309(c) of title 44, United States Code, is amended—

(1) by inserting "(1)" after "(c)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) The annual program submitted under this subsection shall include a report on—

"(A) the printing costs of each branch of the Government;

"(B) with regard to Government publications, a cost comparison of—

"(i) publications published by the Government Printing Office;

"(ii) Federal agency publications that are published by such agency;

"(iii) publications that are published by commercial sources that are not Federal entities under any contract with a Federal agency (other than the Government Printing Office); and

"(iv) publications that are published by commercial sources that are not Federal entities under any contract with the Government Printing Office; and

"(C) the cost of all individual printing orders printed under section 501(a)(1)(C)."

#### SEC. 374. SUPERINTENDENT OF DOCUMENTS.

Section 1702 of title 44, United States Code, is amended by striking out the first sentence and inserting in lieu thereof "The Legislative Deputy Public Printer appointed under section 302 shall also serve as the Superintendent of Documents for no additional compensation."

#### SEC. 375. REQUIREMENT OF PRINTING BY THE GOVERNMENT PRINTING OFFICE.

(a) IN GENERAL.—Section 501 of title 44, United States Code, is amended to read as follows:

##### "§ 501. Government printing, binding, and blank-book work to be done at Government Printing Office

"(a)(1) All printing, binding, and blank-book work for Congress, the Executive Office, the Judiciary, other than the Supreme Court of the United States, and every executive department, independent office and establishment of the Government, shall be done at the Government Printing Office, except—

"(A) classes of work the Public Printer considers to be urgent or necessary to have done elsewhere;

"(B) printing in field printing plants operated by an executive department, independent office or establishment, and the procurement of printing by an executive department, independent office or establishment from allotments for contract field printing, if approved by the Public Printer;

"(C) individual printing orders may be ordered by an executive department or agency costing not more than \$1,500, if—

"(i) the work is printed by any executive department or agency; or

"(ii) the work is printed under a contract by a commercial source that is not a Federal entity;

"(D) printing for the Central Intelligence Agency, the Defense Intelligence Agency, or the National Security Agency; or

"(E) printing from other sources that is specifically authorized by law.

"(2) For purposes of this subsection, the term 'printing' means the process of composition, platemaking, presswork, silk screen processes, binding, microform, and the end items of such processes.

"(b) Any Federal officer who orders or contracts for an individual printing order described under subsection (a)(1)(C) shall include as a term of such order or contract that the executive agency or department, or the commercial source that provides the printing shall deliver a sufficient number of any document printed under such order or contract to the Superintendent of Documents for inclusion in the depository library program under chapter 19. The Public Printer shall promulgate regulations to define the term 'sufficient number' for purposes of this subsection.

"(c) Printing or binding may be done at the Government Printing Office only when authorized by law."

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 207 of the Legislative Branch Appropriations Act, 1993 (44 U.S.C. 501 note; Public Law 102-392; 106 Stat. 1719) is repealed.

#### SEC. 376. REPORT ON COSTS FOR PRINTING BY FEDERAL AGENCIES OTHER THAN THE GOVERNMENT PRINTING OFFICE.

(a) IN GENERAL.—Chapter 11 of title 44, United States Code, is amended by adding at the end thereof the following new section:

##### "§ 1124. Report on costs for printing by Federal agencies

"No later than November 1 of each year, the head of each Federal department and

agency shall submit a report to the Public Printer of the cost of publishing all Government publications that were published by such agency in the preceding fiscal year. Such costs shall not include Government publications published by the Government Printing Office or under contract with a commercial source that is not a Federal entity."

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 11 of title 44, United States Code, is amended by adding at the end thereof the following new item:

"1124. Report on costs for printing by Federal agencies."

#### SEC. 377. TECHNICAL AND CONFORMING AMENDMENTS.

(1) Section 107 of title 1, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer in consultation with the Secretary of the Senate and the Clerk of the House of Representatives".

(2) Section 208 of title 1, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer".

(3) Section 4 of the joint resolution entitled "A joint resolution to provide for the printing and distribution of the Precedents of the House of Representatives compiled and prepared by Lewis Deschler", approved October 18, 1976 (2 U.S.C. 28e) is amended—

(A) in subsection (a) by striking out "Joint Committee on Printing" and inserting in lieu thereof "Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives"; and

(B) in subsection (b) by striking out "Joint Committee on Printing" and inserting in lieu thereof "Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives".

(4) Section 3 of the Joint Resolution of December 24, 1970 (2 U.S.C. 168b) is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives".

(5) Section 145 of title 4, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives".

(6) Section 312 of the Federal Water Power Act (16 U.S.C. 825k) is amended by striking out "Joint Committee on Printing" each place it appears and inserting in each such place "Public Printer".

(7) Section 5(c) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954(c)) is amended by striking out "Joint Committee on Printing of the Congress" and inserting in lieu thereof "Public Printer".

(8) Section 7(c) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956(c)) is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer".

(9) Section 411 of title 28, United States Code, is amended in subsection (a) by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer".

(10) Section 602 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 474(18)) is amended—

(A) by striking out paragraph (18); and

(B) by redesignating paragraphs (19) through (21) as paragraphs (18) through (20), respectively.

(11) The table of chapters for title 44, United States Code, is amended by striking out the item relating to chapter 1.

(12) The table of sections for chapter 1 of title 44, United States Code, is repealed.

(13) Section 305 of title 44, United States Code, is amended in subsection (a)—

(A) in the fourth sentence by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer"; and

(B) in the fifth sentence by striking out "either party may appeal to the Joint Committee on Printing, and the decision of the Joint Committee is final." and inserting in lieu thereof "an appeal may be made under subchapter III of chapter 71 of title 5."

(14) Section 309 of title 44, United States Code, is amended in subsection (a) by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer".

(15) Section 312 of title 44, United States Code, is amended by striking out ", with the approval of the Joint Committee on Printing."

(16) Section 502 of title 44, United States Code, is amended by striking out "with the approval of the Joint Committee on Printing".

(17) Section 504 of title 44, United States Code, is amended by striking out "The Joint Committee on Printing may permit the Public Printer to" and inserting in lieu thereof "The Public Printer may".

(18) Section 505 of title 44, United States Code, is amended by striking out ", under regulations of the Joint Committee on Printing".

(19) Section 508 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives".

(20) Section 509 of title 44, United States Code, is amended—

(A) by striking out "Joint Committee on Printing" and inserting in lieu thereof "the Public Printer"; and

(B) by striking out ", under their direction."

(21) Section 510 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer".

(22) Section 511 of title 44, United States Code, is amended—

(A) in the first sentence by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer"; and

(B) in the second sentence by striking out "The committee" and inserting in lieu thereof "The Public Printer"; and

(C) in the third sentence by striking out "The Committee" and inserting in lieu thereof "The Public Printer".

(23) Section 512 of title 44, United States Code, is amended—

(A) in the first sentence by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer"; and

(B) by striking out "the Committee" and inserting in lieu thereof "the Public Printer".

(24) Section 513 of title 44, United States Code, is amended—

(A) in the first sentence by striking out "standard of quality fixed upon by the Joint Committee on Printing," and inserting in lieu thereof "applicable fixed standard of quality"; and

(B) in the second sentence by striking out "the Committee" and inserting in lieu thereof "the Public Printer".

(25) Section 514 of title 44, United States Code, is amended—

(A) by striking out "Joint Committee on Printing shall determine" and inserting in lieu thereof "Public Printer shall apply the provisions of subchapter V of chapter 35 of title 31, United States Code, to resolve"; and

(B) by striking out "; and the decision of the Committee is final as to the United States".

(26) Section 515 of title 44, United States Code, is amended—

(A) in the first sentence by striking out "report the default to the Joint Committee on Printing, and under its direction."; and

(B) in the second sentence by striking out ", under the direction of the Joint Committee on Printing,".

(27) Section 517 of title 44, United States Code, is amended by striking out "The Joint Committee on Printing may authorize the Public Printer to" and inserting in lieu thereof "The Public Printer may".

(28) Section 702 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer".

(29) Section 703 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Committee on Rules and Administration of the Senate or the Committee on House Administration of the House of Representatives".

(30) Section 707 of title 44, United States Code, is amended by striking out "the Joint Committee on Printing may authorize the printing of a bill or resolution, with index and ancillaries, in the style and form the Joint Committee on Printing considers most suitable in the interest of economy and efficiency, and to so continue until final enactment in both Houses of Congress. The committee" and inserting in lieu thereof "the Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives, may print a bill or resolution, with index and ancillaries, in the style and form the Public Printer considers most suitable in the interest of economy and efficiency, and to so continue until final enactment in both Houses of Congress. The Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives".

(31) Section 709 of title 44, United States Code, is amended in the second sentence by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer".

(32) Section 714 of title 44, United States Code, is amended by striking out "The Joint Committee on Printing shall establish rules to be observed by the Public Printer," and inserting in lieu thereof "The Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives, shall establish rules".

(33) Section 717 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives".

(34) Section 718 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer, in consultation

with the Secretary of the Senate and the appropriate official of the House of Representatives".

(35) Section 721(a) of title 44, United States Code, is amended—

(A) in the first sentence by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives"; and

(B) in the second sentence by striking out "The Joint Committee" and inserting in lieu thereof "The Public Printer".

(36) Section 722 of title 44, United States Code, is amended by striking out ", under the direction of the Joint Committee on Printing,".

(37) Section 723 of title 44, United States Code, is amended—

(A) by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives"; and

(B) by striking out "the Joint Committee" and inserting in lieu thereof "the Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives,".

(38) Section 724 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer".

(39) Section 728 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives,".

(40) Section 738 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives,".

(41) Section 901 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives,".

(42) Section 902 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "the Public Printer, in consultation with the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives,".

(43) Section 903 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives,".

(44) Section 904 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives,".

(45) Section 905 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives,".

(46) Section 906 of title 44, United States Code, is amended—

(A) by striking out "to the Committee on Printing not to exceed one hundred copies;" and inserting in lieu thereof "to the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives not to exceed one hundred copies each;"

(B) by striking out "to each Joint Committee and Joint Commission in Congress, as may be designated by the Joint Committee on Printing" and inserting in lieu thereof "to each Joint Committee and Joint Commission in Congress, as may be designated by the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives";

(C) by striking out "to the Joint Committee on Printing, ten semimonthly copies;" and inserting in lieu thereof "to the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives, ten semimonthly copies;"

(D) by striking out "of which eight copies may be bound in the style and manner approved by the Joint Committee on Printing;" and inserting in lieu thereof "of which eight copies may be bound in the style and manner approved by the Public Printer, in consultation with the appropriate official of the House of Representatives"; and

(E) by striking out "Copies of the daily edition, unless otherwise directed by the Joint Committee on Printing, shall be supplied and delivered" and inserting in lieu thereof "Copies of the daily edition, unless otherwise directed by the Public Printer, shall be supplied and delivered".

(47) Section 1108 of title 44, United States Code, is amended by striking out "subject to regulation by the Joint Committee on Printing,"

(48) Section 1112 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer".

(49) Section 1121 of title 44, United States Code, is amended by striking out "under direction of the Joint Committee on Printing,"

(50) Section 1301 of title 44, United States Code, is amended by striking out "in accordance with directions of the Joint Committee on Printing".

(51) Section 1320A of title 44, United States Code, is amended by striking out "and with the approval of the Joint Committee on Printing".

(52) Section 1333 of title 44, United States Code, is amended in subsection (b) by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives,"

(53) Section 1338 of title 44, United States Code, is amended—

(A) in the first sentence—

(i) by striking out "under limitations and conditions prescribed by the Joint Committee on Printing,"; and

(ii) by striking out "under limitations and conditions prescribed by the Joint Committee on Printing"; and

(B) in the second sentence, by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer".

(54) Section 1705 of title 44, United States Code, is amended by striking out "subject to regulation by the Joint Committee on Printing and"

(55) Section 1710 of title 44, United States Code, is amended—

(A) in the first sentence by striking out "upon a plan approved by the Joint Committee on Printing"; and

(B) in the fourth sentence by striking out "as the Joint Committee on Printing directs".

(56) Section 1914 of title 44, United States Code, is amended by striking out "with the approval of the Joint Committee on Printing, as provided by section 103 of this title,"

(57) Section 5 of the Federal Records Management Amendments of 1976 (44 U.S.C. 2901 note; Public Law 94-575; 90 Stat. 2727) is amended in subsection (b) by striking out "the Joint Committee on Printing or".

#### Subtitle D—Legislative and Executive Relations

#### SEC. 381. COMMITTEE OVERSIGHT GOALS AND REPORTS FOR FEDERAL PROGRAM REVIEW.

(a) COMMITTEE OVERSIGHT GOALS AND REPORTS.—It shall be the responsibility of each standing committee of the House of Representatives and the Senate to—

(1) no later than March 1 of each year in which a first session of a Congress occurs, develop, adopt, and submit Committee Review Agendas, which shall list the discretionary programs, entitlement programs, and tax expenditures under the committee's jurisdiction which the committee intends to review during that Congress and the next 3 Congresses;

(2) coordinate, to the maximum extent practicable, in preparing their oversight agenda with other House and Senate committees having jurisdiction over the same or related laws, programs, or agencies;

(3) provide, after preparation of the first oversight agenda required under this statute, a separate section in their oversight agenda that summarizes what actions and recommendations occurred with respect to implementing their agenda for that Congress;

(4) transmit their oversight agenda to the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate, respectively, for consideration during the committee funding process; and

(5) adopt legislative procedures to assure, to the greatest extent practicable, that any recommendation proposed by the committee under paragraph (3) is considered by the full Senate or House of Representatives.

(b) HEARINGS ON INSPECTOR GENERAL, GAO, AND AGENCY AUDIT REPORTS.—Each committee of the House of Representatives and the Senate shall hold hearings during each Congress for the purpose of reviewing appropriate reports relating to the activities of executive agencies over which the committee has oversight responsibility filed during the preceding Congress, including reports of the inspectors general, the General Accounting Office, as well as agency audit reports.

#### SEC. 382. SUNSET AGENCY REPORTING REQUIREMENTS.

(a) IN GENERAL.—Any law requiring an executive agency to report to Congress shall be effective for not to exceed 5 years after the date of enactment of such law.

(b) LAWS IN EFFECT.—Any law requiring an executive agency to report to Congress in effect on the date of enactment of this Act shall expire 5 years after such date unless the law provides for an earlier expiration date in which case the law shall expire on the earlier date.

#### TITLE IV—EFFECTIVE DATE

#### SEC. 401. EFFECTIVE DATE; APPLICATION.

(a) IN GENERAL.—Except as provided in subsection (b), this Act and the amendments

made by this Act shall become effective January 1, 1995, and shall apply to bienniums beginning after September 30, 1995.

(b) FISCAL YEAR 1995.—Notwithstanding subsection (a), the provisions of—

(1) the Congressional Budget Act of 1974, and

(2) title 31, United States Code, (as such provisions were in effect on the day before the effective date of this title) shall apply to the fiscal year beginning on October 1, 1994.

(c) DEFINITION.—For purposes of this section, the term "biennium" shall have the meaning given to such term in paragraph (12) of section 3 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(12)), as added by section 302(b)(2) of this Act.

#### BOREN AMENDMENT NO. 2597

Mr. BOREN proposed an amendment to amendment No. 2596 proposed by Mr. DOMENICI to the bill H.R. 4649, supra; as follows:

In lieu of the matter to be inserted, insert the following: "and agency funds;

#### DIVISION 2—CONGRESSIONAL REFORM SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Legislative Reorganization Act of 1994".

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

Sec. 1. Short title; table of contents.  
Sec. 2. Rulemaking power of Senate and House of Representatives.

#### TITLE I—REFORM OF THE SENATE

Sec. 101. Senate committee assignments.  
Sec. 102. Senate committee structure.  
Sec. 103. Senate scheduling.  
Sec. 104. Proxy votes.  
Sec. 105. Senate committee attendance.  
Sec. 106. Senate floor proceedings.  
Sec. 107. Dedication of unexpended funds to deficit reduction.

#### TITLE II—REFORM OF THE HOUSE OF REPRESENTATIVES

#### TITLE III—REFORM OF THE CONGRESS

#### Subtitle A—Budget Process

#### PART I—BIENNIAL BUDGETING

Sec. 301. Revision of timetable.  
Sec. 302. Amendments to the Congressional Budget and Impoundment Control Act of 1974.  
Sec. 303. Amendments to title 31, United States Code.  
Sec. 304. Two-year appropriations; title and style of appropriations Acts.  
Sec. 305. Conforming amendments to rules of House of Representatives.  
Sec. 306. Multiyear authorizations.

#### PART II—ADDITIONAL BUDGET PROCESS CHANGES

Sec. 311. CBO reports to budget committees.  
Sec. 312. Byrd rule clarifications.  
Sec. 313. GAO assistance with authorizations and oversight.

#### Subtitle B—Staffing; Administration; and Support Agencies

Sec. 331. Legislative branch streamlining and restructuring.  
Sec. 332. Authorization of certain congressional instrumentalities.  
Sec. 333. Detailees from congressional support agencies and executive agencies.

#### Subtitle C—Abolishing the Joint Committees

#### PART I—JOINT ECONOMIC COMMITTEE

Sec. 361. Joint Economic Committee.

PART II—JOINT COMMITTEE ON TAXATION  
Sec. 362. Joint Committee on Taxation.

PART III—JOINT COMMITTEE ON THE LIBRARY OF CONGRESS  
Sec. 363. Joint Committee on the Library of Congress.

PART IV—JOINT COMMITTEE ON PRINTING

- Sec. 371. Joint Committee on Printing.
- Sec. 372. Deputy Public Printers.
- Sec. 373. Annual report to Congress.
- Sec. 374. Superintendent of Documents.
- Sec. 375. Requirement of printing by the Government Printing Office.
- Sec. 376. Report on costs for printing by Federal agencies other than the Government Printing Office.
- Sec. 377. Technical and conforming amendments.

Subtitle D—Legislative and Executive Relations

- Sec. 381. Committee oversight goals and reports for Federal program review.
- Sec. 382. Sunset agency reporting requirements.

TITLE IV—EFFECTIVE DATE

- Sec. 401. Effective date; application.
- SEC. 2. RULEMAKING POWER OF SENATE AND HOUSE OF REPRESENTATIVES.**

The provisions of this Act (as applicable) are enacted by the Congress—

(1) insofar as applicable to the Senate, as an exercise of the rulemaking power of the Senate and, to the extent so applicable, those sections are deemed a part of the Standing Rules of the Senate, superseding other individual rules of the Senate only to the extent that those sections are inconsistent with those other individual Senate rules, subject to and with full recognition of the power of the Senate to enact or change any rule of the Senate at any time in its exercise of its constitutional right to determine the rules of its proceedings; and

(2) insofar as applicable to the House of Representatives, as an exercise of the rulemaking power of the House of Representatives, subject to and with full recognition of the power of the House of Representatives to enact or change any rule of the House at any time in its exercise of its constitutional right to determine the rules of its proceedings.

TITLE I—REFORM OF THE SENATE

**SEC. 101. SENATE COMMITTEE ASSIGNMENTS.**

Rule XXIV of the Standing Rules of the Senate is amended to read as follows:

“RULE XXIV

“APPOINTMENT OF COMMITTEES

“Appointments to standing committees and all other committees shall be made by the majority leader and the minority leader for each member of their respective parties. Such appointments shall be subject to any rules adopted by the respective party caucuses.”

**SEC. 102. SENATE COMMITTEE STRUCTURE.**

(a) COMMITTEE AND SUBCOMMITTEE ASSIGNMENTS.—Paragraphs 2, 3, and 4 of rule XXV of the Standing Rules of the Senate are amended to read as follows:

“2. (a) Except as otherwise provided by paragraph 4 of this rule, each of the following standing committees shall consist of the number of Senators set forth in the following table on the line on which the name of that committee appears:

“Committee:	Members
“Appropriations .....	—
“Armed Services .....	—

“Finance .....	—
“Foreign Relations .....	—

“(b) Except as otherwise provided by paragraph 4 of this rule, each of the following standing committees shall consist of the number of Senators set forth in the following table on the line on which the name of that committee appears:

“Committee:	Members
“Agriculture, Nutrition, and Forestry .....	—
“Banking, Housing, and Urban Affairs .....	—
“Commerce, Science, and Transportation .....	—
“Energy and Natural Resources .....	—
“Environment and Public Works .....	—
“Governmental Affairs .....	—
“Judiciary .....	—
“Labor and Human Resources ..	—

“(c) The committees listed in this paragraph (except for the Committee on Appropriations and the Committee on Foreign Relations) shall not have more than 3 subcommittees.

“3. (a) Except as otherwise provided by paragraph 4 of this rule, each of the following standing committees shall consist of the number of Senators set forth in the following table on the line on which the name of that committee appears:

“Committee:	Members
“Aging .....	—
“Budget .....	—
“Indian Affairs .....	—
“Rules and Administration .....	—
“Small Business .....	—
“Veterans' Affairs .....	—

“(b) The following committee shall consist of the number of Senators set forth in the following table:

“Committee:	Members
“Ethics .....	—
“Intelligence .....	—

“(c) The committees listed in this paragraph shall not have more than 2 subcommittees.

“4. (a) Except as otherwise provided by this paragraph—

“(1) each Senator may serve on only one committee listed in paragraph 2(a) and only two committees listed in paragraph 2; and

“(2) each Senator may serve on only one committee listed in paragraph 3(a).

“(b)(1) Each Senator may serve on not more than two subcommittees of each committee (other than the Committee on Appropriations) listed in paragraph 2 of which he is a member.

“(2) Each Senator may serve on not more than one subcommittee of a committee listed in paragraph 3(a) of which he is a member.

“(3) Notwithstanding subparagraphs (1) and (2), a Senator serving as chairman or ranking minority member of a standing, select, or special committee of the Senate may serve ex officio, without vote, as a member of any subcommittee of such committee.

“(4) No committee of the Senate may establish any subunit of that committee other than a subcommittee, unless the Senate by resolution has given permission therefore.

“(c) By agreement entered into by the majority leader and the minority leader, the membership of one or more standing committees may be increased temporarily from time to time by such number or numbers as may be required to accord to the majority party a majority of the membership of all standing committees. When any such temporary increase is necessary to accord to the majority party a majority of the member-

ship of all standing committees, members of the majority party in such number as may be required for that purpose may serve as members of three standing committees listed in paragraph 2. No such temporary increase in the membership of any standing committee under this subparagraph shall be continued in effect after the need therefore has ended. No standing committee may be increased in membership under this subparagraph by more than two members in excess of the number prescribed for that committee by paragraph 2 or 3(a).

“(d)(1) No Senator shall serve at any time as chairman of more than one standing, select, or special committee of the Senate.

“(2)(A) A Senator who is serving as the chairman of a committee listed in paragraph 2 or 3(a) may serve at any time as the chairman of only one subcommittee of all committees listed in paragraphs 2 and 3(a) of which he is a member.

“(B) Any Senator other than a Senator described in division (A) may serve as—

“(i) the chairman of only one subcommittee of each committee listed in paragraph 2 or 3(a), of which he is a member; and

“(ii) the chairman of only two subcommittees of the committees listed in paragraphs 2 and 3(a).

“(e) The provisions of this paragraph may only be waived by the Senate by a resolution designating the Senator or Senators receiving the waiver and adopted by an affirmative yea-and-nay vote of the Senators duly chosen and sworn. The resolution shall be offered by the majority leader with the approval of the minority leader. The resolution shall be privileged and no amendment thereto shall be in order. Debate on the resolution shall be limited to one hour, equally divided.”

(b) ABOLITION OF REDUCED COMMITTEES.—

(1) NOTIFICATION.—The majority leader and the minority leader shall notify the chairman of the Committee on Rules and Administration not later than 30 days after the convening of a Congress if the number of majority and minority members of a committee of the Senate for such Congress each fall below 50 percent of the number of such members serving on the committee at the end of the 102d Congress.

(2) RESOLUTION ABOLISHING.—The Committee on Rules and Administration shall report to the Senate a resolution abolishing such committee not later than 30 days after receiving notice under paragraph (1). The Senate shall consider and act upon the resolution not later than 20 session days after the resolution is reported.

(3) ADJUSTING OTHER COMMITTEES.—If a committee is abolished by a resolution pursuant to paragraph (2), the majority leader and the minority leader may adjust the membership of other committees to provide for members of the abolished committee.

**SEC. 103. SENATE SCHEDULING.**

Paragraph 3 of rule XXVI of the Standing Rules of the Senate is amended to read as follows:

“3. (a)(1) The provisions of this subparagraph apply to the committees' meetings (including meetings to conduct hearings) held on Tuesday, Wednesday, or Thursday.

“(2) On Tuesdays, only those committees listed in paragraph 2(a) of rule XXV (except the Committee on Appropriations) shall meet for the transaction of business before the committee.

“(3) On Wednesdays, only those committees listed in paragraph 2(b) of rule XXV shall meet for the transaction of business before the committee.

"(4) On Thursdays, only those committees listed in paragraph 3(a) of rule XXV (except the Committee on the Budget) shall meet for the transaction of business before the committee.

"(5) Subcommittees of a full committee referred to in division (2), (3), or (4) may only meet on the day assigned to the full committee. Subcommittees may not meet when the full committee is meeting.

"(6) No committee of the Senate or any subcommittee thereof may meet, without special leave, on a day not designated for such committee or subcommittee under this subparagraph unless consent therefore has been obtained from the majority leader and the minority leader (or in the event of the absence of either of such leader, from the designee of the leaders). The majority leader or the designee of the majority leader shall announce to the Senate whenever consent has been given under this division and shall state the time and place of such meeting. The right to make such announcement of consent shall have the same priority as the filing of a cloture motion.

"(b) If at least three members of any committee desire that a special meeting of the committee be called by the chairman and subject to the provisions of subparagraph (a), those members may file in the offices of the committee their written request to the chairman for that special meeting. Immediately upon the filing of the request, the clerk of the committee shall notify the chairman of the filing of the request. If, within three calendar days after the filing of the request, the chairman does not call the requested special meeting, to be held within seven calendar days after the filing of the request, a majority of the members of the committee may file in the offices of the committee their written notice that a special meeting of the committee will be held, specifying the date and hour of that special meeting. The committee shall meet on that date and hour. Immediately upon the filing of the notice, the clerk of the committee shall notify all members of the committee that such special meeting will be held and inform them of its date and hour. If the chairman of any such committee is not present at any regular, additional, or special meeting of the committee, the ranking member of the majority party on the committee who is present shall preside at that meeting."

#### SEC. 104. PROXY VOTES.

The paragraph 7 of rule XXVI of the Standing Rules of the Senate is amended by adding at the end thereof the following:

"(d) Notwithstanding any other provision of this paragraph, no vote of any member of any committee may be cast by proxy unless the addition of the vote to the vote totals does not effect the result of the vote totals."

#### SEC. 105. SENATE COMMITTEE ATTENDANCE.

Rule XXVI of the Standing Rules of the Senate is amended by adding at the end thereof the following:

"(14) The chairman of each committee of the Senate shall publish, in the Congressional Record, the committee attendance and voting records of each member of the committee on or before July 1 and December 31."

#### SEC. 106. SENATE FLOOR PROCEEDINGS.

(a) REQUIREMENT OF A THREE-FIFTHS VOTE TO OVERTURN THE CHAIR POST-CLOTURE.—The third undesignated paragraph of paragraph 2 of rule XXII of the Standing Rules of the Senate is amended by adding at the end thereof the following: "Appeals from the decision of the Presiding Officer shall require

an affirmative vote of three-fifths of the Senators duly chosen and sworn—except on a measure or motion to amend the Senate rules, in which case the necessary affirmative vote shall be two-thirds of the Senators present and voting."

(b) NONDEBATABLE MOTION TO PROCEED.—Paragraph 2 of rule VIII of the Standing Rules of the Senate is amended by striking the period at the end thereof and inserting the following: "; except those motions to proceed made by the majority leader, or his designee, on which there shall be a time limitation for debate of two hours equally divided between the majority and the minority leaders, or their designees. Any such motion to proceed, by the majority leader, or any other Senator, to any motion, resolution, or proposal to change any of the Standing Rules of the Senate shall be debatable."

(c) CHARGING QUORUM CALLS AGAINST AN INDIVIDUAL'S TIME UNDER CLOTURE.—The first sentence of the third undesignated paragraph of paragraph 2 of rule XXII of the Standing Rules of the Senate is amended by striking the period and inserting the following: ", with the time consumed by quorum calls being charged to the Senator who requested the call of the quorum."

(d) DISPENSING WITH THE READING OF CONFERENCE REPORTS.—Paragraph 1 of rule XXVIII of the Standing Rules of the Senate is amended by striking "and shall be determined without debate." and inserting the following: "notwithstanding a request for the reading of the conference report (if such report is printed and available one day prior to the motion to consider), and shall be determined without debate."

(e) SENSE OF THE SENATE RESOLUTIONS.—Rule XV of the Standing Rules of the Senate is amended by inserting at the end thereof the following:

"6. On a point of order made by any Senator, no amendment expressing the sense of the Senate or the sense of the Congress, or an amendment to such amendment, shall be received unless the amendment is signed by at least 10 Senators."

#### SEC. 107. DEDICATION OF UNEXPENDED FUNDS TO DEFICIT REDUCTION.

(a) INTERIM RULES.—Not later than January 1, 1995 and each year thereafter through 1998, the Secretary of the Senate shall certify and publish in the Congressional Record a list identifying each member of the Senate who has used less than the amount allocated to the personal office of the member during the preceding fiscal year and the amount of such unused allocation.

(b) DEDICATION OF UNEXPENDED FUNDS BEGINNING WITH FISCAL YEAR 1999.—Not later than January 1, 1999 and each year thereafter, the Secretary of the Senate shall notify each Member of the Senate of the difference between the total obligations incurred by his personal office and the allocations for administrative expenses, legislative assistants, and clerk hire available to the Member for the preceding fiscal year. Within 30 days after the date of such notification, any Member pursuant to this subsection may direct the Secretary of the Senate to submit a rescission request for such amount from unobligated balances for that fiscal year.

(c) PERFORMANCE REVIEW GUIDANCE.—In conducting the performance review required by section 331, the Senate committees shall include a plan to reduce the disparity between appropriations and allocations to Members.

## TITLE II—REFORM OF THE HOUSE OF REPRESENTATIVES

### TITLE III—REFORM OF THE CONGRESS

#### Subtitle A—Budget Process

#### PART I—BIENNIAL BUDGETING

#### SEC. 301. REVISION OF TIMETABLE.

Section 300 of the Congressional Budget Act of 1974 (2 U.S.C. 631) is amended to read as follows:

#### "TIMETABLE

"SEC. 300. (a) IN GENERAL.—Except as provided by subsection (b), the timetable with respect to the congressional budget process for any Congress (beginning with the One Hundred Fourth Congress) is as follows:

"First Session	
"On or before:	Action to be completed:
First Monday in February.	President submits budget recommendations.
February 15 ..	Congressional Budget Office submits report to Budget Committees.
Within 6 weeks after budget submission.	Committees submit views and estimates to Budget Committees.
April 1 .....	Budget Committees report concurrent resolution on the biennial budget.
April 15 .....	Congress completes action on concurrent resolution on the biennial budget.
May 15 .....	Biennial appropriation bills may be considered in the House.
June 10 .....	House Appropriations Committee reports last biennial appropriation bill.
June 15 .....	Congress completes action on reconciliation legislation.
June 30 .....	Congress completes action on biennial appropriation bills.
October 1 .....	Biennium begins.
"Second Session	
"On or before:	Action to be completed:
May 15 .....	Congressional Budget Office submits report to Budget Committees.
The last day of the session.	Congress completes action on bills and resolutions authorizing a new budget authority for the succeeding biennium.

"(b) SPECIAL RULE.—In the case of any session of Congress that begins in any year immediately following a leap year and during which the term of a President (except a President who succeeds himself) begins, the following dates shall supersede those set forth in subsection (a):

"(1) First Monday in April, President submits budget recommendations.

"(2) April 20, committees submit views and estimates to Budget Committees.

"(3) May 15, Budget Committees report concurrent resolution on the biennial budget.

"(4) June 1, Congress completes action on concurrent resolution on the biennial budget.

"(5) July 1, biennial appropriation bills may be considered in the House.

"(6) July 20, House Appropriations Committee reports last biennial appropriation bill."

#### SEC. 302. AMENDMENTS TO THE CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974.

(a) DECLARATION OF PURPOSE.—Section 2(2) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 621(2)) is amended by striking "each year" and inserting "biennially".

(b) DEFINITIONS.—  
(1) Section 3(4) of such Act (2 U.S.C. 622(4)) is amended by striking "fiscal year" each place it appears and inserting "biennium".

(2) Section 3 of such Act (2 U.S.C. 622) is further amended by adding at the end the following new paragraph:

"(12) The term 'biennium' means the period of 2 consecutive fiscal years beginning on October 1 of any odd-numbered year."

(c) BIENNIAL CONCURRENT RESOLUTION ON THE BUDGET.—

(1) Section 301(a) of such Act (2 U.S.C. 632(a)) is amended—

(A) by striking "April 15 of each year" and inserting "April 15 of each odd-numbered year";

(B) by striking "the fiscal year beginning on October 1 of such year" the first place it appears and inserting "the biennium beginning on October 1 of such year";

(C) by striking "the fiscal year beginning on October 1 of such year" the second place it appears and inserting "each fiscal year in such period";

(D) by striking "and planning levels for each of the two ensuing fiscal years" and inserting "and the appropriate levels for each of the 3 ensuing fiscal years";

(E) in paragraph (6) by striking "for the fiscal year of the resolution and each of the 4" and inserting "for the biennium of the resolution and each of the 3"; and

(F) in paragraph (7) by striking "for the fiscal year of the resolution and each of the 4" and inserting "for the biennium of the resolution and each of the 3".

(2) Section 301(b) of such Act (2 U.S.C. 632(b)) is amended—

(A) in the matter preceding paragraph (1) by inserting "for a biennium" after "concurrent resolution on the budget"; and

(B) in paragraph (3) by striking "for such fiscal year" and inserting "for either fiscal year in such biennium".

(3) Section 301(d) of such Act (2 U.S.C. 632(d)) is amended by inserting "(or, if applicable, as provided by section 300(b))" after "United States Code".

(4) Section 301(e) of such Act (2 U.S.C. 632(e)) is amended—

(A) in the first sentence by striking "fiscal year" and inserting "biennium";

(B) by inserting between the second and third sentences the following new sentence: "On or before April 1 of each odd-numbered year (or, if applicable, as provided by section 300(b)) the Committee on the Budget of each House shall report to its House the concurrent resolution on the budget referred to in subsection (a) for the biennium beginning on October 1 of that year.";

(C) in paragraph (6) by striking "such fiscal year" and inserting "the first fiscal year of such biennium"; and

(D) in paragraph (10) by striking "the fiscal year covered" and inserting "the biennium covered".

(5) Section 301(f) of such Act (2 U.S.C. 632(f)) is amended by striking "fiscal year" each place it appears and inserting "biennium".

(6) Section 301(g)(1) of such Act (U.S.C. 632(g)(1)) is amended by striking "for a fiscal year" and inserting "for a biennium".

(7) The section heading of section 301 of such Act is amended by striking "annual" and inserting "biennial".

(8) The table of contents set forth in section 1(b) of such Act is amended by striking "Annual" in the item relating to section 301 and inserting "Biennial".

(d) SECTION 302 COMMITTEE ALLOCATIONS.—Section 302(a)(2) of such Act (2 U.S.C. 633(a)(2)) is amended by striking "fiscal year of the resolution and each of the 4 succeeding fiscal years" and inserting "the biennium of the resolution and each of the 3 succeeding fiscal years".

(e) SECTION 303 POINT OF ORDER.—

(1) Section 303(a) of such Act (2 U.S.C. 634(a)) is amended by striking "fiscal year" each place it appears and inserting "biennium".

(2) Section 303(b) of such Act (2 U.S.C. 634(b)) is amended—

(A) in subparagraphs (A) and (B) of paragraph (1) by striking "the fiscal year" each place it appears and inserting "biennium";

(B) in paragraph (1) by striking "any calendar year" and inserting "any odd-numbered calendar year (or, if applicable, as provided by section 300(b))"; and

(C) by striking paragraph (2), striking "(1)", and redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively.

(f) PERMISSIBLE REVISIONS OF CONCURRENT RESOLUTIONS ON THE BUDGET.—Section 304(a) of such Act (2 U.S.C. 635) is amended—

(1) by striking "fiscal year" the first two places it appears and inserting "biennium";

(2) by striking "for such fiscal year"; and

(3) by inserting before the period "for such biennium".

(g) PROCEDURES FOR CONSIDERATION OF BUDGET RESOLUTIONS.—Section 305(a)(3) of such Act (2 U.S.C. 636(b)(3)) is amended by striking "fiscal year" and inserting "biennium".

(h) REPORTS AND SUMMARIES OF CONGRESSIONAL BUDGET ACTIONS.—Section 308(a)(1)(A) of such Act (2 U.S.C. 639(a)(1)) is amended by striking "fiscal year (or fiscal years)" and inserting "biennium".

(i) COMPLETION OF ACTION ON REGULAR APPROPRIATION BILLS.—Section 309 of such Act (2 U.S.C. 640) is amended—

(1) by inserting "of any odd-numbered calendar year" after "July";

(2) by striking "annual" and inserting "regular"; and

(3) by striking "fiscal year" and inserting "biennium".

(j) RECONCILIATION PROCESS.—

(1) Section 310(a) of such Act (2 U.S.C. 641(a)) is amended—

(A) by striking "any fiscal year" in the matter preceding paragraph (1) and inserting "any biennium";

(B) in paragraph (1) by striking "such fiscal year" each place it appears and inserting "each fiscal year in such biennium"; and

(C) in paragraph (2) by inserting "for each fiscal year in such biennium" after "revenues".

(2) Section 310(f) of such Act (2 U.S.C. 641(f)) is amended by striking "for such fiscal year" and inserting "for such biennium".

(k) SECTION 311 POINT OF ORDER.—

(1)(A) Section 311(a)(1) of such Act (2 U.S.C. 642(a)) is amended—

(i) by striking "for a fiscal year" and inserting "for a biennium";

(ii) by striking "such fiscal year" the first place it appears and inserting "either fiscal year in such biennium";

(iii) by striking "during such fiscal year" and inserting "during either fiscal year in such biennium";

(iv) by striking "revenues for such fiscal year" and inserting "revenues for a fiscal year"; and

(v) by striking "budget for such fiscal year" and inserting "budget for either fiscal year in such biennium".

(B) Section 311(a)(2)(A) of such Act is amended—

(i) by striking "for the first" and inserting "for either";

(ii) by striking "covering such fiscal year" and inserting "covering such biennium";

(iii) by striking "the first fiscal year covered" and inserting "either fiscal year in such biennium covered";

(iv) by striking "the first fiscal year plus" and inserting "the biennium plus"; and

(v) by striking "4 fiscal years" and inserting "3 fiscal years".

(2) Section 311(b) of such Act (2 U.S.C. 642(b)) is amended by striking "such fiscal year" the second place it appears and inserting "either fiscal year in such biennium".

(1) BILLS PROVIDING NEW SPENDING AUTHORITY.—Section 401(b)(2) of such Act (2 U.S.C. 651(b)(2)) is amended by striking "for such fiscal year" the second place it appears and inserting "for the biennium in which such fiscal year occurs".

(m) DATE OF ADJUSTING ALLOCATIONS.—Section 603(a) of such Act (2 U.S.C. 665b) is amended by inserting after "April 15" the following "(or if section 300(b) applies by June 15th)".

SEC. 303. AMENDMENTS TO TITLE 31, UNITED STATES CODE.

(a) DEFINITION.—Section 1101 of title 31, United States Code, is amended by adding at the end thereof the following new paragraph:

"(3) 'biennium' has the meaning given to such term in paragraph (12) of section 3 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(12))."

(b) BUDGET CONTENTS AND SUBMISSION TO THE CONGRESS.—

(1) So much of section 1105(a) of title 31, United States Code, as precedes paragraph (1) thereof is amended to read as follows:

"(a) On or before the first Monday in February of each odd-numbered year (or, if applicable, as provided by section 300(b) of the Congressional Budget Act of 1974), beginning with the One Hundred Fourth Congress, the President shall transmit to the Congress, the budget for the biennium beginning on October 1 of such calendar year. The budget transmitted under this subsection shall include a budget message and summary and supporting information. The President shall include in each budget the following:"

(2) Section 1105(a)(5) of title 31, United States Code, is amended by striking "the fiscal year for which the budget is submitted and the 4 fiscal years after that year" and inserting "each fiscal year in the biennium for which the budget is submitted and in the succeeding 3 years".

(3) Section 1105(a)(6) of title 31, United States Code, is amended by striking "the fiscal year for which the budget is submitted and the 4 fiscal years after that year" and inserting "each fiscal year in the biennium for which the budget is submitted and in the succeeding 3 years".

(4) Section 1105(a)(9)(C) of title 31, United States Code, is amended by striking "the fiscal year" and inserting "each fiscal year in the biennium".

(5) Section 1105(a)(12) of title 31, United States Code, is amended—

(A) by striking "the fiscal year" in subparagraph (A) and inserting "each fiscal year in the biennium"; and

(B) by striking "4 fiscal years after that year" in subparagraph (B) and inserting "3 fiscal years immediately following the second fiscal year in such biennium".

(6) Section 1105(a)(13) of title 31, United States Code, is amended by striking "the fiscal year" and inserting "each fiscal year in the biennium".

(7) Section 1105(a)(14) of title 31, United States Code, is amended by striking "that year" and inserting "each fiscal year in the biennium for which the budget is submitted".

(8) Section 1105(a)(16) of title 31, United States Code, is amended by striking "the fiscal year" and inserting "each fiscal year in the biennium".

(9) Section 1105(a)(17) of title 31, United States Code, is amended—

(A) by striking "the fiscal year following the fiscal year" and inserting "each fiscal year in the biennium following the biennium";

(B) by striking "that following fiscal year" and inserting "each such fiscal year"; and

(C) by striking "fiscal year before the fiscal year" and inserting "biennium before the biennium".

(10) Section 1105(a)(18) of title 31, United States Code, is amended—

(A) by striking "the prior fiscal year" and inserting "each of the 2 most recently completed fiscal years";

(B) by striking "for that year" and inserting "with respect to that fiscal year"; and

(C) by striking "in that year" and inserting "in that fiscal year".

(11) Section 1105(a)(19) of title 31, United States Code, is amended—

(A) by striking "the prior fiscal year" and inserting "each of the 2 most recently completed fiscal years";

(B) by striking "for that year" and inserting "with respect to that fiscal year"; and

(C) by striking "in that year" each place it appears and inserting "in that fiscal year".

(c) ESTIMATED EXPENDITURES OF LEGISLATIVE AND JUDICIAL BRANCHES.—Section 1105(b) of title 31, United States Code, is amended by striking "each year" and inserting "each even-numbered year".

(d) RECOMMENDATIONS TO MEET ESTIMATED DEFICIENCIES.—Section 1105(c) of title 31, United States Code, is amended—

(1) by striking "fiscal year for" each place it appears and inserting "biennium for";

(2) by inserting "or current biennium, as the case may be," after "current fiscal year"; and

(3) by striking "that year" and inserting "that period".

(e) STATEMENT WITH RESPECT TO CERTAIN CHANGES.—Section 1105(d) of title 31, United States Code, is amended by striking "fiscal year" and inserting "biennium".

(f) CAPITAL INVESTMENT ANALYSIS.—Section 1105(e) of title 31, United States Code, is amended by striking "ensuing fiscal year" and inserting "biennium to which such budget relates".

(g) SUPPLEMENTAL BUDGET ESTIMATES AND CHANGES.—

(1) Section 1106(a) of title 31, United States Code, is amended—

(A) in the matter preceding paragraph (1) by striking "fiscal year" and inserting "biennium";

(B) in paragraph (1) by striking "that fiscal year" and inserting "each fiscal year in such biennium";

(C) in paragraph (2) by striking "4 fiscal years following the fiscal year" and inserting "3 fiscal years following the biennium"; and

(D) by striking "fiscal year" in paragraph (3) and inserting "biennium".

(2) Section 1106(b) of title 31, United States Code, is amended by striking "the fiscal year" and inserting "each fiscal year in the biennium".

(h) CURRENT PROGRAMS AND ACTIVITIES ESTIMATES.—

(1) Section 1109(a) of title 31, United States Code, is amended—

(A) by striking "On or before the first Monday after January 3 of each year (or on or before February 5 in 1994)" and inserting "At

the same time the budget required by section 1105 is submitted for a biennium"; and

(B) by striking "the following fiscal year" and inserting "each fiscal year of such period".

(2) Section 1109(b) of title 31, United States Code, is amended by striking "March 1 of each year" and inserting "within 6 weeks of the President's budget submission for each odd-numbered year (or, if applicable, as provided by section 300(b) of the Congressional Budget Act of 1974)".

(i) YEAR-AHEAD REQUESTS FOR AUTHORIZING LEGISLATION.—Section 1110 of title 31, United States Code, is amended—

(1) by striking "fiscal year" and inserting "biennium (beginning on or after October 1, 1995)"; and

(2) by striking "year before the year in which the fiscal year begins" and inserting "second calendar year preceding the calendar year in which the biennium begins".

(j) BUDGET INFORMATION ON CONSULTING SERVICES.—Section 1114 of title 31, United States Code, is amended—

(1) by striking "The" each place it appears and inserting "For each biennium beginning with the biennium beginning on October 1, 1994, the"; and

(2) by striking "each year" each place it appears.

#### SEC. 304. TWO-YEAR APPROPRIATIONS; TITLE AND STYLE OF APPROPRIATIONS ACTS.

Section 105 of title 1, United States Code, is amended to read as follows:

##### "§ 105. Title and style of appropriations Acts

"(a) The style and title of all Acts making appropriations for the support of the Government shall be as follows: 'An Act making appropriations (here insert the object) for the biennium ending September 30 (here insert the odd-numbered calendar year)'.

"(b) All Acts making regular appropriations for the support of the Government shall be enacted for a biennium and shall specify the amount of appropriations provided for each fiscal year in such period.

"(c) For purposes of this section, the term 'biennium' has the same meaning as in section 3(11) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(11))."

#### SEC. 305. CONFORMING AMENDMENTS TO RULES OF HOUSE OF REPRESENTATIVES.

(a) Clause 4(a)(1)(A) of rule X of the Rules of the House of Representatives is amended by inserting "odd-numbered" after "each".

(b) Clause 4(a)(2) of rule X of the Rules of the House of Representatives is amended by striking "such fiscal year" and inserting "the biennium in which such fiscal year begins".

(c)(1) Clause 4(b)(2) of rule X of the Rules of the House of Representatives is amended by striking "concurrent resolution on the budget for each fiscal year" and inserting "concurrent resolution on the budget required under section 301(a) of the Congressional Budget Act of 1974 for each biennium".

(2) Clause 4(b) of rule X of the Rules of the House of Representatives is amended by striking "and" at the end of subparagraph (4), by striking the period and inserting "; and" at the end of subparagraph (5), and by adding at the end the following new subparagraph:

"(6) to use the second year of each biennium to study issues with long-term budgetary and economic implications, which would include—

"(A) holding hearings to receive testimony from committees of jurisdiction to identify problem areas and to report on the results of oversight; and

"(B) by January 1 of each odd-numbered year, issuing a report to the Speaker which identifies the key issues facing the Congress in the next biennium.".

(d) Clause 4(f) of rule X of the Rules of the House of Representatives is amended by striking "annually" each place it appears and inserting "biennially".

(e) Clause 4(g) of rule X of the Rules of the House of Representatives is amended—

(1) by striking "March 15 of each year" and inserting "March 15 of each odd-numbered year (or, if applicable, as provided by section 300(b) of the Congressional Budget Act of 1974)";

(2) by striking "fiscal year" the first place it appears and inserting "biennium"; and

(3) by striking "that fiscal year" and inserting "each fiscal year in such ensuing biennium".

(f) Clause 4(h) of rule X of the Rules of the House of Representatives is amended by striking "fiscal year" and inserting "biennium".

(g) Subdivision (C) of clause 2(1)(1) of rule XI of the Rules of the House of Representatives is repealed.

(h) Clause 4(a) of rule XI of the Rules of the House of Representatives is amended by striking "fiscal year if reported after September 15 preceding the beginning of such fiscal year" and inserting "biennium if reported after August 1 of the year in which such biennium begins".

(i) Clause 2 of rule XLIX of the Rules of the House of Representatives is amended by striking "fiscal year" and inserting "biennium".

#### SEC. 306. MULTIYEAR AUTHORIZATIONS.

(a) IN GENERAL.—Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following new section:

##### "AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 314. It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, or conference report that authorizes appropriations for a period of less than 2 fiscal years, unless the program, project, or activity for which the funds are to be spent is of less than 2 years duration."

(b) CONFORMING AMENDMENT.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after the item relating to section 313 the following new item:

"Sec. 314. Authorizations of appropriations."

#### PART II—ADDITIONAL BUDGET PROCESS CHANGES

##### SEC. 311. CBO REPORTS TO BUDGET COMMITTEES.

Section 308 of the Congressional Budget Act of 1974 is amended by—

(1) redesignating subsection (c) as subsection (d); and

(2) inserting after subsection (b) the following:

"(c) QUARTERLY BUDGET REPORTS.—The Congressional Budget Office shall, as soon as practicable after the completion of each quarter of the fiscal year, prepare an analysis comparing revenues, spending, and the deficit for the current fiscal year to assumptions included in the Congressional budget resolution. In preparing this report, the Congressional Budget Office shall combine actual budget figures to date with projected revenue and spending for the balance of the fiscal year. The Congressional Budget Office shall include any other information in this report that it deems useful for a full understanding of the current fiscal position of the

Federal Government. The reports mandated by this subsection shall be transmitted by the Director to the Senate and House Committees on the Budget, and the Congressional Budget Office shall make such reports available to any interested party upon request."

#### SEC. 312. BYRD RULE CLARIFICATIONS.

(a) **PERMANENT EXTENSION OF BYRD RULE.**—The first sentence of section 904(c) and the second sentence of section 904(d) of the Congressional Budget Act of 1974 are amended by inserting "313." after "306."

(b) **BYRD RULE CLARIFICATIONS.**—Section 313 of the Congressional Budget Act of 1974 is amended—

(1) in subsection (b)(1)(A), by striking ", including changes in outlays and revenues brought about by changes in the terms and conditions under which outlays are made or revenues are required to be collected";

(2) by redesignating subsections (d) and (e) as subsections (e) and (f);

(3) by redesignating subsection (c), the second time it appears, as subsection (d) and inserting before "When" the following:

"(c) **APPLICATION TO CONFERENCE REPORTS.**—"; and

(4) in subsection (d) (as redesignated by paragraph (3))—

(A) in paragraph (1), by striking "and"; and  
(B) by redesignating paragraph (2) as paragraph (3) and inserting after paragraph (1) the following:

"(2)(A) a point of order being made against any provision producing an increase in outlays in any fiscal year shall be considered extraneous if the net effect of provisions affecting outlays reported by the conferees would cause a Senate committee to fail to achieve its outlay instruction, and

"(B) a point of order being made against any provision producing a reduction in revenues in any fiscal year shall be considered extraneous if the net effect of provisions affecting revenues reported by the conferees would cause a Senate committee to fail to achieve its revenue instruction, and".

#### SEC. 313. GAO ASSISTANCE WITH AUTHORIZATIONS AND OVERSIGHT.

Section 717 of title 31, United States Code, is amended by adding at the end thereof the following:

"(e) During the second session of each Congress, the Comptroller General shall give priority to requests from Congress for audits and evaluations of Government programs and activities."

#### Subtitle B—Staffing, Administration, and Support Agencies

#### SEC. 331. LEGISLATIVE BRANCH STREAMLINING AND RESTRUCTURING.

(a) **PERFORMANCE REVIEW.**—Not later than one year after the date of enactment of this Act, the Committee on Rules and Administration and the Committee on Appropriations of the Senate and the appropriate committees or task force of the House of Representatives shall submit to the leadership of their respective Houses a performance review together with any necessary implementing legislation for achieving efficiencies, economies, and reductions in the total number of full time equivalent positions in the legislative branch comparable to those proposed and implemented for the executive branch in the President's National Performance Review, submitted September 1993.

(b) **REDUCTION BASE.**—The reductions required by this section shall be made from a base of the total number of full time equivalent positions in the legislative branch on the date of introduction of S. Con. Res. 57

(102d Congress, 1st Session), the concurrent resolution establishing the Joint Committee on the Organization of Congress.

#### SEC. 332. AUTHORIZATION OF CERTAIN CONGRESSIONAL INSTRUMENTALITIES.

(a) **IN GENERAL.**—It is the intent of Congress that the General Accounting Office, Congressional Budget Office, Library of Congress, Government Printing Office, and Office of Technology Assessment shall be authorized for 8 fiscal years in accordance with this section.

(b) **CYCLES.**—

(1) **GENERAL ACCOUNTING OFFICE.**—The General Accounting Office shall be authorized by the enactment every eighth year beginning with fiscal year 1997 of an Act to authorize appropriations for that office for the next 8 fiscal years.

(2) **LIBRARY OF CONGRESS.**—The Library of Congress shall be authorized by the enactment every eighth year beginning with fiscal year 1999 of an Act to authorize appropriations for that office for the next 8 fiscal years.

(3) **GOVERNMENT PRINTING OFFICE.**—The Government Printing Office shall be authorized by the enactment every eighth year beginning with fiscal year 2001 of an Act to authorize appropriations for that office for the next 8 fiscal years.

(4) **CONGRESSIONAL BUDGET OFFICE AND OFFICE OF TECHNOLOGY AND ASSESSMENT.**—The Congressional Budget Office and Office of Technology Assessment shall be authorized by the enactment every eighth year beginning with fiscal year 2003 of an Act to authorize appropriations for those offices for the next 8 fiscal years.

(c) **JURISDICTION.**—

(1) **IN GENERAL.**—The Committee on Rules and Administration of the Senate and the appropriate committee in the House of Representatives shall have jurisdiction over the authorizations required by this section.

(2) **OVERSIGHT.**—In reauthorizing instrumentalities as required by this section, the committees referred to in paragraph (1) shall seek to—

(A) eliminate duplication between instrumentalities;

(B) consolidate activities; and

(C) increase efficiency within instrumentalities.

(d) **COST ACCOUNTING REQUIREMENTS.**—Effective on January 1, 1995, each instrumentality of the Congress providing support to the Congress shall prepare by not later than December 31 of each year an annual report detailing the cost to the instrumentality of providing support to each committee of the Senate and Senator. The report shall be submitted to the Secretary of the Senate and included in the Secretary's semiannual report.

(e) **VOUCHER ALLOCATION SYSTEM.**—The Committee on Rules and Administration of the Senate and the appropriate committee of the House of Representatives shall study and report to their respective Houses as a part of their authorization responsibilities under subsection (c) concerning the feasibility of establishing a voucher allocation system for committees using the services of instrumentalities of Congress.

(f) **REPEALERS.**—

(1) **GENERAL ACCOUNTING OFFICE.**—Section 736 of title 31, United States Code, is repealed.

(2) **CONGRESSIONAL BUDGET OFFICE.**—Section 201(f) of the Congressional Budget Act of 1974 (2 U.S.C. 601(f)) is repealed.

(3) **LIBRARY OF CONGRESS.**—Any authorization of appropriations for the Library of Congress in effect on the effective date of this paragraph is repealed.

(4) **GOVERNMENT PRINTING OFFICE.**—Any authorization of appropriations for the Government Printing Office in effect on the effective date of this paragraph is repealed.

(5) **OFFICE OF TECHNOLOGY ASSESSMENT.**—Section 12 of the Technology Assessment Act of 1972 (2 U.S.C. 481) is repealed.

(6) **EFFECTIVE DATE.**—Paragraphs (1) and (2) shall take effect with respect to fiscal years beginning with fiscal year 1997. Paragraphs (3), (4), and (5) shall take effect with respect to fiscal years beginning with fiscal year 1999.

#### SEC. 333. DETAILEES FROM CONGRESSIONAL SUPPORT AGENCIES AND EXECUTIVE AGENCIES.

(a) **REIMBURSEMENT.**—The cost of the service on detail to a committee of the Senate or House of Representatives or the personal office of a member of the Senate or House of Representatives of a person who is regularly employed by an instrumentality of Congress or an executive agency shall be fully reimbursed to the instrumentality of Congress or executive agency by the committee or personal office that receives the service.

(b) **DEFINITION.**—In this section, the term "instrumentality of Congress" means—

- (1) the General Accounting Office;
- (2) the Congressional Budget Office;
- (3) the Library of Congress;
- (4) the Government Printing Office; and
- (5) the Office of Technology Assessment.

#### Subtitle C—Abolishing the Joint Committees

##### PART I—JOINT ECONOMIC COMMITTEE

#### SEC. 361. JOINT ECONOMIC COMMITTEE.

(a) **ABOLITION.**—Effective beginning with the 104th Congress, the Joint Economic Committee is abolished.

(b) **TRANSFER OF RESPONSIBILITY.**—The Committee on the Budget and the appropriate committee of the House of Representatives shall be responsible for review of the Economic Report of the President required by section 103 of the Full Employment and Balanced Growth Act of 1978 (15 U.S.C. 1022).

##### PART II—JOINT COMMITTEE ON TAXATION

#### SEC. 362. JOINT COMMITTEE ON TAXATION.

(a) **ABOLITION.**—Effective beginning with the 104th Congress, the Joint Committee on Taxation is abolished.

(b) **TRANSFER OF RESPONSIBILITY.**—Section 202(b) of the Congressional Budget Act of 1974 is amended by—

(1) designating the text of such subsection as paragraph (1); and

(2) adding at the end thereof the following:

"(2) The Office shall provide technical guidance to the Committee on Finance and the Committee on Ways and Means with respect to taxation and tax legislation. The Office shall perform the responsibilities formerly assigned to the Joint Committee on Taxation upon the abolishment of such committee."

(c) **COMMITTEE TRANSFER OVERSIGHT.**—The Committee on Rules and Administration and the appropriate committee of the House of Representatives shall report to the Congress a plan for the transfer of responsibilities and staff as required by this section.

##### PART III—JOINT COMMITTEE ON THE LIBRARY OF CONGRESS

#### SEC. 363. JOINT COMMITTEE ON THE LIBRARY OF CONGRESS.

(a) **ABOLITION.**—Effective beginning with the 104th Congress, the Joint Committee on the Library of Congress is abolished.

(b) **TRANSFER OF RESPONSIBILITY.**—Effective beginning with the 104th Congress, the responsibilities of the Joint Committee on

the Library of Congress shall be performed by the Committee on Rules and Administration of the Senate and the appropriate committee of the House of Representatives.

#### PART IV—JOINT COMMITTEE ON PRINTING

##### SEC. 371. JOINT COMMITTEE ON PRINTING.

(a) ABOLITION.—Chapter 1 of title 44, United States Code, is repealed.

(b) TRANSFER OF RESPONSIBILITY.—Subject to subsection (c), all duties, authorities, responsibilities, and functions performed by the Joint Committee on Printing before the effective date of this part shall be performed by the Public Printer on and after such date.

(c) OVERSIGHT FUNCTIONS.—All legislative oversight jurisdiction, duties, authorities, responsibilities, and functions performed by the Joint Committee on Printing before the effective date of this part shall be performed by the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives on and after such date.

(d) REFERENCES.—Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to the Joint Committee on Printing shall be deemed to refer to the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives, or the Public Printer, as appropriate.

##### SEC. 372. DEPUTY PUBLIC PRINTERS.

(a) IN GENERAL.—Section 302 of title 44, United States Code, is amended to read as follows:

#### "§302. Deputy Public Printers; appointments; duties

"(a)(1) The President of the United States shall nominate and, by and with the advice and consent of the Senate, appoint the—

"(A) Legislative Deputy Public Printer who shall also serve as the Superintendent of Documents;

"(B) Executive Deputy Public Printer; and

"(C) Judicial Deputy Public Printer.

"(2) Each Deputy Printer shall be a suitable person, who is a practical printer and versed in the art of bookbinding.

"(b) In addition to any other duties required by the Public Printer, the Legislative Deputy Public Printer shall perform all duties of the Government Printing Office relating to the Legislative branch, including all applicable duties performed under—

"(1) chapter 7 relating to Congressional printing and binding;

"(2) chapter 9 relating to the Congressional Record;

"(3) chapter 13 relating to particular reports and documents, including sections 1326 and 1332;

"(4) chapter 17 relating to the distribution and sale of public documents;

"(5) chapter 19 relating to the Depository Library Program;

"(6) chapter 27 relating to Advisory Committee on Records of Congress; and

"(7) section 3511 relating to services performed for the Federal Information Locator System.

"(c) In addition to any other duties required by the Public Printer, the Executive Deputy Public Printer shall perform all duties of the Government Printing Office relating to the Executive branch, including all applicable duties performed under—

"(1) chapter 5 relating to the production and procurement of printing and binding;

"(2) chapter 11 relating to Executive printing and binding;

"(3) chapter 13 relating to particular reports and documents; and

"(4) chapters 15, 21, 22, 23, 25, 29, 31, 33, 35, 37, and 39.

"(d) In addition to any other duties required by the Public Printer, the Judicial Deputy Public Printer shall perform all duties of the Government Printing Office relating to the Judicial branch, including all applicable duties performed under—

"(1) chapter 11 relating to Judiciary printing and binding, including printings under section 1120; and

"(2) chapter 13 relating to particular reports and documents.

"(e) The Public Printer, in consultation with the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives, shall determine the respective duties of the Deputy Public Printers under this section."

(b) COMPENSATION.—Section 303 of title 44, United States Code, is amended in the second sentence by striking out "the Deputy Public Printer" and inserting in lieu thereof "each of the Deputy Public Printers".

(c) SUCCESSION.—Section 304 of title 44, United States Code, is amended by striking out "the Deputy Public Printer" and inserting in lieu thereof "one of the Deputy Public Printers designated by the President".

(d) TECHNICAL AND CONFORMING AMENDMENTS.—(1) The table of sections for chapter 3 of title 44, United States Code, is amended by striking out the item relating to section 302 and inserting in lieu thereof the following new item:

"302. Deputy Public Printers; appointments; duties."

(2) Section 313 of title 44, United States Code, is amended—

(A) in the first sentence—

(i) by striking out "Deputy Public Printer" and inserting in lieu thereof "3 Deputy Public Printers"; and

(ii) by striking out "Joint Committee on Printing" and inserting in lieu thereof "Committee on Rules and Administration of the Senate and the Committee on Administration of the House of Representatives";

(B) in the second sentence—

(i) by striking out "Deputy Public Printer" and inserting in lieu thereof "3 Deputy Public Printers"; and

(ii) by striking out "Joint Committee on Printing" and inserting in lieu thereof "Committee on Rules and Administration of the Senate and the Committee on Administration of the House of Representatives"; and

(C) in the third sentence—

(i) by striking out "Deputy Public Printer" and inserting in lieu thereof "3 Deputy Public Printers"; and

(ii) by striking out "Joint Committee on Printing" and inserting in lieu thereof "Committee on Rules and Administration of the Senate and the Committee on Administration of the House of Representatives".

##### SEC. 373. ANNUAL REPORT TO CONGRESS.

Section 309(c) of title 44, United States Code, is amended—

(1) by inserting "(1)" after "(c)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) The annual program submitted under this subsection shall include a report on—

"(A) the printing costs of each branch of the Government;

"(B) with regard to Government publications, a cost comparison of—

"(i) publications published by the Government Printing Office;

"(ii) Federal agency publications that are published by such agency;

"(iii) publications that are published by commercial sources that are not Federal entities under any contract with a Federal agency (other than the Government Printing Office); and

"(iv) publications that are published by commercial sources that are not Federal entities under any contract with the Government Printing Office; and

"(C) the cost of all individual printing orders printed under section 501(a)(1)(C)."

##### SEC. 374. SUPERINTENDENT OF DOCUMENTS.

Section 1702 of title 44, United States Code, is amended by striking out the first sentence and inserting in lieu thereof "The Legislative Deputy Public Printer appointed under section 302 shall also serve as the Superintendent of Documents for no additional compensation."

##### SEC. 375. REQUIREMENT OF PRINTING BY THE GOVERNMENT PRINTING OFFICE.

(a) IN GENERAL.—Section 501 of title 44, United States Code, is amended to read as follows:

#### "§501. Government printing, binding, and blank-book work to be done at Government Printing Office

"(a)(1) All printing, binding, and blank-book work for Congress, the Executive Office, the Judiciary, other than the Supreme Court of the United States, and every executive department, independent office and establishment of the Government, shall be done at the Government Printing Office, except—

"(A) classes of work the Public Printer considers to be urgent or necessary to have done elsewhere;

"(B) printing in field printing plants operated by an executive department, independent office or establishment, and the procurement of printing by an executive department, independent office or establishment from allotments for contract field printing, if approved by the Public Printer;

"(C) individual printing orders may be ordered by an executive department or agency costing not more than \$1,500, if—

"(i) the work is printed by any executive department or agency; or

"(ii) the work is printed under a contract by a commercial source that is not a Federal entity;

"(D) printing for the Central Intelligence Agency, the Defense Intelligence Agency, or the National Security Agency; or

"(E) printing from other sources that is specifically authorized by law.

"(2) For purposes of this subsection, the term 'printing' means the process of composition, platemaking, presswork, silk screen processes, binding, microform, and the end items of such processes.

"(b) Any Federal officer who orders or contracts for an individual printing order described under subsection (a)(1)(C) shall include as a term of such order or contract that the executive agency or department, or the commercial source that provides the printing shall deliver a sufficient number of any document printed under such order or contract to the Superintendent of Documents for inclusion in the depository library program under chapter 19. The Public Printer shall promulgate regulations to define the term 'sufficient number' for purposes of this subsection.

"(c) Printing or binding may be done at the Government Printing Office only when authorized by law."

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 207 of the Legislative Branch Appropriations Act, 1993 (44 U.S.C. 501 note; Public Law 102-392; 106 Stat. 1719) is repealed.

**SEC. 376. REPORT ON COSTS FOR PRINTING BY FEDERAL AGENCIES OTHER THAN THE GOVERNMENT PRINTING OFFICE.**

(a) IN GENERAL.—Chapter 11 of title 44, United States Code, is amended by adding at the end thereof the following new section:

**“§ 1124. Report on costs for printing by Federal agencies**

“No later than November 1 of each year, the head of each Federal department and agency shall submit a report to the Public Printer of the cost of publishing all Government publications that were published by such agency in the preceding fiscal year. Such costs shall not include Government publications published by the Government Printing Office or under contract with a commercial source that is not a Federal entity.”

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 11 of title 44, United States Code, is amended by adding at the end thereof the following new item:

“1124. Report on costs for printing by Federal agencies.”

**SEC. 377. TECHNICAL AND CONFORMING AMENDMENTS.**

(1) Section 107 of title 1, United States Code, is amended by striking out “Joint Committee on Printing” and inserting in lieu thereof “Public Printer in consultation with the Secretary of the Senate and the Clerk of the House of Representatives”.

(2) Section 208 of title 1, United States Code, is amended by striking out “Joint Committee on Printing” and inserting in lieu thereof “Public Printer”.

(3) Section 4 of the joint resolution entitled “A joint resolution to provide for the printing and distribution of the Precedents of the House of Representatives compiled and prepared by Lewis Deschler”, approved October 18, 1976 (2 U.S.C. 28e) is amended—

(A) in subsection (a) by striking out “Joint Committee on Printing” and inserting in lieu thereof “Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives”; and

(B) in subsection (b) by striking out “Joint Committee on Printing” and inserting in lieu thereof “Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives”.

(4) Section 3 of the Joint Resolution of December 24, 1970 (2 U.S.C. 168b) is amended by striking out “Joint Committee on Printing” and inserting in lieu thereof “Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives”.

(5) Section 145 of title 4, United States Code, is amended by striking out “Joint Committee on Printing” and inserting in lieu thereof “Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives”.

(6) Section 312 of the Federal Water Power Act (16 U.S.C. 825k) is amended by striking out “Joint Committee on Printing” each place it appears and inserting in each such place “Public Printer”.

(7) Section 5(c) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954(c)) is amended by striking out “Joint Committee on Printing of the Congress” and inserting in lieu thereof “Public Printer”.

(8) Section 7(c) of the National Foundation on the Arts and the Humanities Act of 1965

(20 U.S.C. 956(c)) is amended by striking out “Joint Committee on Printing” and inserting in lieu thereof “Public Printer”.

(9) Section 411 of title 28, United States Code, is amended in subsection (a) by striking out “Joint Committee on Printing” and inserting in lieu thereof “Public Printer”.

(10) Section 602 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 474(18)) is amended—

(A) by striking out paragraph (18); and  
(B) by redesignating paragraphs (19) through (21) as paragraphs (18) through (20), respectively.

(11) The table of chapters for title 44, United States Code, is amended by striking out the item relating to chapter 1.

(12) The table of sections for chapter 1 of title 44, United States Code, is repealed.

(13) Section 305 of title 44, United States Code, is amended in subsection (a)—

(A) in the fourth sentence by striking out “Joint Committee on Printing” and inserting in lieu thereof “Public Printer”; and

(B) in the fifth sentence by striking out “either party may appeal to the Joint Committee on Printing, and the decision of the Joint Committee is final.” and inserting in lieu thereof “an appeal may be made under subchapter III of chapter 71 of title 5.”

(14) Section 309 of title 44, United States Code, is amended in subsection (a) by striking out “Joint Committee on Printing” and inserting in lieu thereof “Public Printer”.

(15) Section 312 of title 44, United States Code, is amended by striking out “, with the approval of the Joint Committee on Printing,”

(16) Section 502 of title 44, United States Code, is amended by striking out “with the approval of the Joint Committee on Printing”.

(17) Section 504 of title 44, United States Code, is amended by striking out “The Joint Committee on Printing may permit the Public Printer to” and inserting in lieu thereof “The Public Printer may”.

(18) Section 505 of title 44, United States Code, is amended by striking out “, under regulations of the Joint Committee on Printing”.

(19) Section 508 of title 44, United States Code, is amended by striking out “Joint Committee on Printing” and inserting in lieu thereof “Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives”.

(20) Section 509 of title 44, United States Code, is amended—

(A) by striking out “Joint Committee on Printing” and inserting in lieu thereof “the Public Printer”; and

(B) by striking out “, under their direction,”

(21) Section 510 of title 44, United States Code, is amended by striking out “Joint Committee on Printing” and inserting in lieu thereof “Public Printer”.

(22) Section 511 of title 44, United States Code, is amended—

(A) in the first sentence by striking out “Joint Committee on Printing” and inserting in lieu thereof “Public Printer”; and

(B) in the second sentence by striking out “The committee” and inserting in lieu thereof “The Public Printer”; and

(C) in the third sentence by striking out “The Committee” and inserting in lieu thereof “The Public Printer”.

(23) Section 512 of title 44, United States Code, is amended—

(A) in the first sentence by striking out “Joint Committee on Printing” and inserting in lieu thereof “Public Printer”; and

(B) by striking out “the Committee” and inserting in lieu thereof “the Public Printer”.

(24) Section 513 of title 44, United States Code, is amended—

(A) in the first sentence by striking out “standard of quality fixed upon by the Joint Committee on Printing,” and inserting in lieu thereof “applicable fixed standard of quality”; and

(B) in the second sentence by striking out “the Committee” and inserting in lieu thereof “the Public Printer”.

(25) Section 514 of title 44, United States Code, is amended—

(A) by striking out “Joint Committee on Printing shall determine” and inserting in lieu thereof “Public Printer shall apply the provisions of subchapter V of chapter 35 of title 31, United States Code, to resolve”; and

(B) by striking out “; and the decision of the Committee is final as to the United States”.

(26) Section 515 of title 44, United States Code, is amended—

(A) in the first sentence by striking out “report the default to the Joint Committee on Printing, and under its direction,”; and

(B) in the second sentence by striking out “, under the direction of the Joint Committee on Printing,”

(27) Section 517 of title 44, United States Code, is amended by striking out “The Joint Committee on Printing may authorize the Public Printer to” and inserting in lieu thereof “The Public Printer may”.

(28) Section 702 of title 44, United States Code, is amended by striking out “Joint Committee on Printing” and inserting in lieu thereof “Public Printer”.

(29) Section 703 of title 44, United States Code, is amended by striking out “Joint Committee on Printing” and inserting in lieu thereof “Committee on Rules and Administration of the Senate or the Committee on House Administration of the House of Representatives”.

(30) Section 707 of title 44, United States Code, is amended by striking out “the Joint Committee on Printing may authorize the printing of a bill or resolution, with index and ancillaries, in the style and form the Joint Committee on Printing considers most suitable in the interest of economy and efficiency, and to so continue until final enactment in both Houses of Congress. The committee” and inserting in lieu thereof “the Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives, may print a bill or resolution, with index and ancillaries, in the style and form the Public Printer considers most suitable in the interest of economy and efficiency, and to so continue until final enactment in both Houses of Congress. The Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives”.

(31) Section 709 of title 44, United States Code, is amended in the second sentence by striking out “Joint Committee on Printing” and inserting in lieu thereof “Public Printer”.

(32) Section 714 of title 44, United States Code, is amended by striking out “The Joint Committee on Printing shall establish rules to be observed by the Public Printer,” and inserting in lieu thereof “The Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives, shall establish rules”.

(33) Section 717 of title 44, United States Code, is amended by striking out “Joint

Committee on Printing" and inserting in lieu thereof "Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives".

(34) Section 718 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives".

(35) Section 721(a) of title 44, United States Code, is amended—

(A) in the first sentence by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives"; and

(B) in the second sentence by striking out "The Joint Committee" and inserting in lieu thereof "The Public Printer".

(36) Section 722 of title 44, United States Code, is amended by striking out ", under the direction of the Joint Committee on Printing".

(37) Section 723 of title 44, United States Code, is amended—

(A) by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives"; and

(B) by striking out "the Joint Committee" and inserting in lieu thereof "the Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives".

(38) Section 724 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer".

(39) Section 728 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives".

(40) Section 738 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives".

(41) Section 901 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives".

(42) Section 902 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "the Public Printer, in consultation with the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives".

(43) Section 903 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives".

(44) Section 904 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer, in consultation with the Secretary of the Senate and the ap-

propriate official of the House of Representatives".

(45) Section 905 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives".

(46) Section 906 of title 44, United States Code, is amended—

(A) by striking out "to the Committee on Printing not to exceed one hundred copies;" and inserting in lieu thereof "to the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives not to exceed one hundred copies each:";

(B) by striking out "to each Joint Committee and Joint Commission in Congress, as may be designated by the Joint Committee on Printing" and inserting in lieu thereof "to each Joint Committee and Joint Commission in Congress, as may be designated by the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives";

(C) by striking out "to the Joint Committee on Printing, ten semimonthly copies;" and inserting in lieu thereof "to the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives, ten semimonthly copies";

(D) by striking out "of which eight copies may be bound in the style and manner approved by the Joint Committee on Printing;" and inserting in lieu thereof "of which eight copies may be bound in the style and manner approved by the Public Printer, in consultation with the appropriate official of the House of Representatives"; and

(E) by striking out "Copies of the daily edition, unless otherwise directed by the Joint Committee on Printing, shall be supplied and delivered" and inserting in lieu thereof "Copies of the daily edition, unless otherwise directed by the Public Printer, shall be supplied and delivered".

(47) Section 1108 of title 44, United States Code, is amended by striking out ", subject to regulation by the Joint Committee on Printing".

(48) Section 1112 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer".

(49) Section 1121 of title 44, United States Code, is amended by striking out ", under direction of the Joint Committee on Printing".

(50) Section 1301 of title 44, United States Code, is amended by striking out ", in accordance with directions of the Joint Committee on Printing".

(51) Section 1320A of title 44, United States Code, is amended by striking out ", and with the approval of the Joint Committee on Printing".

(52) Section 1333 of title 44, United States Code, is amended in subsection (b) by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives".

(53) Section 1338 of title 44, United States Code, is amended—

(A) in the first sentence—

(i) by striking out ", under limitations and conditions prescribed by the Joint Committee on Printing"; and

(ii) by striking out "under limitations and conditions prescribed by the Joint Committee on Printing"; and

(B) in the second sentence, by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer".

(54) Section 1705 of title 44, United States Code, is amended by striking out ", subject to regulation by the Joint Committee on Printing and".

(55) Section 1710 of title 44, United States Code, is amended—

(A) in the first sentence by striking out ", upon a plan approved by the Joint Committee on Printing"; and

(B) in the fourth sentence by striking out "as the Joint Committee on Printing directs".

(56) Section 1914 of title 44, United States Code, is amended by striking out ", with the approval of the Joint Committee on Printing, as provided by section 103 of this title".

(57) Section 5 of the Federal Records Management Amendments of 1976 (44 U.S.C. 2901 note; Public Law 94-575; 90 Stat. 2727) is amended in subsection (b) by striking out "the Joint Committee on Printing or".

#### Subtitle D—Legislative and Executive Relations

#### SEC. 381. COMMITTEE OVERSIGHT GOALS AND REPORTS FOR FEDERAL PROGRAM REVIEW.

(a) COMMITTEE OVERSIGHT GOALS AND REPORTS.—It shall be the responsibility of each standing committee of the House of Representatives and the Senate to—

(1) no later than March 1 of each year in which a first session of a Congress occurs, develop, adopt, and submit Committee Review Agendas, which shall list the discretionary programs, entitlement programs, and tax expenditures under the committee's jurisdiction which the committee intends to review during that Congress and the next 3 Congresses;

(2) coordinate, to the maximum extent practicable, in preparing their oversight agenda with other House and Senate committees having jurisdiction over the same or related laws, programs, or agencies;

(3) provide, after preparation of the first oversight agenda required under this statute, a separate section in their oversight agenda that summarizes what actions and recommendations occurred with respect to implementing their agenda for that Congress;

(4) transmit their oversight agenda to the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate, respectively, for consideration during the committee funding process; and

(5) adopt legislative procedures to assure, to the greatest extent practicable, that any recommendation proposed by the committee under paragraph (3) is considered by the full Senate or House of Representatives.

(b) HEARINGS ON INSPECTOR GENERAL, GAO, AND AGENCY AUDIT REPORTS.—Each committee of the House of Representatives and the Senate shall hold hearings during each Congress for the purpose of reviewing appropriate reports relating to the activities of executive agencies over which the committee has oversight responsibility filed during the preceding Congress, including reports of the inspectors general, the General Accounting Office, as well as agency audit reports.

#### SEC. 382. SUNSET AGENCY REPORTING REQUIREMENTS.

(a) IN GENERAL.—Any law requiring an executive agency to report to Congress shall be effective for not to exceed 5 years after the date of enactment of such law.

(b) LAWS IN EFFECT.—Any law requiring an executive agency to report to Congress in effect on the date of enactment of this Act

shall expire 5 years after such date unless the law provides for an earlier expiration date in which case the law shall expire on the earlier date.

#### TITLE IV—EFFECTIVE DATE

##### SEC. 401. EFFECTIVE DATE; APPLICATION.

(a) IN GENERAL.—Except as provided in subsection (b), this Act and the amendments made by this Act shall become effective January 1, 1995, and shall apply to bienniums beginning after September 30, 1995.

(b) FISCAL YEAR 1995.—Notwithstanding subsection (a), the provisions of—

(1) the Congressional Budget Act of 1974, and

(2) title 31, United States Code, (as such provisions were in effect on the day before the effective date of this title) shall apply to the fiscal year beginning on October 1, 1994.

(c) DEFINITION.—For purposes of this section, the term "biennium" shall have the meaning given to such term in paragraph (12) of section 3 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(12)), as added by section 302(b)(2) of this Act.

#### GOVERNMENT MANAGEMENT REFORM ACT OF 1994 FEDERAL FINANCIAL MANAGEMENT ACT OF 1994

#### GLENN (AND ROTH) AMENDMENT NO. 2598

Mr. BOREN (for Mr. GLENN, for himself, and Mr. ROTH) proposed an amendment to the bill (S. 2170) to provide a more effective, efficient, and responsive Government; as follows:

On page 1, line 3, strike out all through line 10 on page 32 and insert in lieu thereof the following:

##### SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Government Management Reform Act of 1994".

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

Sec. 1. Short title and table of contents.

##### TITLE I—LIMITATION ON PAY

Sec. 101. Limitation on certain annual pay adjustments.

##### TITLE II—HUMAN RESOURCE MANAGEMENT

Sec. 201. SES annual leave accumulation.

##### TITLE III—STREAMLINING MANAGEMENT CONTROL

Sec. 301. Authority to increase efficiency in reporting to Congress.

##### TITLE IV—FINANCIAL MANAGEMENT

Sec. 401. Short title.

Sec. 402. Electronic payments.

Sec. 403. Franchise fund pilot programs.

Sec. 404. Simplification of management reporting process.

Sec. 405. Annual financial reports.

##### TITLE I—LIMITATION ON PAY

##### SEC. 101. LIMITATION ON CERTAIN ANNUAL PAY ADJUSTMENTS.

Effective as of December 31, 1994—

(1) section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31(2)) is amended—

(A) by striking out "(2) Effective" and inserting in lieu thereof "(2)(A) Subject to subparagraph (B), effective"; and

(B) by adding at the end thereof the following:

"(B) In no event shall the percentage adjustment taking effect under subparagraph (A) in any calendar year (before rounding), in any rate of pay, exceed the percentage adjustment taking effect in such calendar year under section 5303 of title 5, United States Code, in the rates of pay under the General Schedule.";

(2) section 104 of title 3, United States Code, is amended—

(A) in the first sentence by inserting "(a)" before "The";

(B) in the second sentence by striking out "Effective" and inserting in lieu thereof "Subject to subsection (b), effective"; and

(C) by adding at the end thereof the following:

"(b) In no event shall the percentage adjustment taking effect under the second and third sentences of subsection (a) in any calendar year (before rounding) exceed the percentage adjustment taking effect in such calendar year under section 5303 of title 5 in the rates of pay under the General Schedule.";

(3) section 5318 of title 5, United States Code, is amended—

(A) in the first sentence by striking out "Effective" and inserting in lieu thereof "(a) Subject to subsection (b), effective"; and

(B) by adding at the end thereof the following:

"(b) In no event shall the percentage adjustment taking effect under subsection (a) in any calendar year (before rounding), in any rate of pay, exceed the percentage adjustment taking effect in such calendar year under section 5303 in the rates of pay under the General Schedule.";

(4) section 461(a) of title 28, United States Code, is amended—

(A) by striking out "(a) Effective" and inserting in lieu thereof "(a)(1) Subject to paragraph (2), effective"; and

(B) by adding at the end thereof the following:

"(2) In no event shall the percentage adjustment taking effect under paragraph (1) in any calendar year (before rounding), in any salary rate, exceed the percentage adjustment taking effect in such calendar year under section 5303 of title 5 in the rates of pay under the General Schedule."

##### TITLE II—HUMAN RESOURCE MANAGEMENT

##### SEC. 201. SES ANNUAL LEAVE ACCUMULATION.

(a) IN GENERAL.—Effective on the first day of the first applicable pay period beginning after the date of the enactment of this Act, subsection (f) of section 6304 of title 5, United States Code, is amended to read as follows:

"(f)(1) This subsection applies with respect to annual leave accrued by an individual while serving in a position in—

"(A) the Senior Executive Service;

"(B) the Senior Foreign Service;

"(C) the Defense Intelligence Senior Executive Service;

"(D) the Senior Cryptologic Executive Service; or

"(E) the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service.

"(2) For purposes of applying any limitation on accumulation under this section with respect to any annual leave described in paragraph (1)—

"(A) '30 days' in subsection (a) shall be deemed to read '90 days'; and

"(B) '45 days' in subsection (b) shall be deemed to read '90 days'."

(b) USE OF EXCESS LEAVE.—Notwithstanding the amendment made by subsection (a),

in the case of an employee who, on the effective date of subsection (a), is subject to subsection (f) of section 6304 of title 5, United States Code, and who has to such employee's credit annual leave in excess of the maximum accumulation otherwise permitted by subsection (a) or (b) of section 6304 (determined applying the amendment made by subsection (a)), such excess annual leave shall remain to the credit of the employee and be subject to reduction, in the same manner as provided in subsection (c) of section 6304.

##### TITLE III—STREAMLINING MANAGEMENT CONTROL

##### SEC. 301. AUTHORITY TO INCREASE EFFICIENCY IN REPORTING TO CONGRESS.

(a) PURPOSE.—The purpose of this title is to improve the efficiency of executive branch performance in implementing statutory requirements for reports to Congress and committees of Congress such as the elimination or consolidation of duplicative or obsolete reporting requirements and adjustments to deadlines that shall provide for more efficient workload distribution or improve the quality of reports.

(b) AUTHORITY OF THE DIRECTOR.—The Director of the Office of Management and Budget may publish annually in the budget submitted by the President to the Congress, recommendations for consolidation, elimination, or adjustments in frequency and due dates of statutorily required periodic reports to the Congress or committees of Congress. For each recommendation, the Director shall provide an individualized statement of the reasons that support the recommendation. In addition, for each report for which a recommendation is made, the Director shall state with specificity the exact consolidation, elimination, or adjustment in frequency or due date that is recommended.

(c) RECOMMENDATIONS.—The Director's recommendations shall be consistent with the purpose stated in subsection (a).

(d) CONSULTATION.—Before the publication of the recommendations under subsection (b), the Director or his designee shall consult with the appropriate congressional committees concerning the recommendations.

##### TITLE IV—FINANCIAL MANAGEMENT

##### SEC. 401. SHORT TITLE.

This title may be cited as the "Federal Financial Management Act of 1994".

##### SEC. 402. ELECTRONIC PAYMENTS.

(a) IN GENERAL.—Section 3332 of title 31, United States Code, is amended to read as follows:

##### "§ 3332. Required direct deposit

"(a)(1) Notwithstanding any other provision of law, all Federal wage, salary, and retirement payments shall be paid to recipients of such payments by electronic funds transfer, unless another method has been determined by the Secretary of the Treasury to be appropriate.

"(2) Each recipient of Federal wage, salary, or retirement payments shall designate one or more financial institutions or other authorized payment agents and provide the payment certifying or authorizing agency information necessary for the recipient to receive electronic funds transfer payments through each institution so designated.

"(b)(1) The head of each agency shall waive the requirements of subsection (a) of this section for a recipient of Federal wage, salary, or retirement payments authorized or certified by the agency upon written request by such recipient.

"(2) Federal wage, salary, or retirement payments shall be paid to any recipient

granted a waiver under paragraph (1) of this subsection by any method determined appropriate by the Secretary of the Treasury.

"(c)(1) The Secretary of the Treasury may waive the requirements of subsection (a) of this section for any group of recipients upon request by the head of an agency under standards prescribed by the Secretary of the Treasury.

"(2) Federal wage, salary, or retirement payments shall be paid to any member of a group granted a waiver under paragraph (1) of this subsection by any method determined appropriate by the Secretary of the Treasury.

"(d) This section shall apply only to recipients of Federal wage or salary payments who begin to receive such payments on or after January 1, 1995, and recipients of Federal retirement payments who begin to receive such payments on or after January 1, 1995.

"(e) The crediting of the amount of a payment to the appropriate account on the books of a financial institution or other authorized payment agent designated by a payment recipient under this section shall constitute a full acquittance to the United States for the amount of the payment."

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 33 of title 31, United States Code, is amended by amending the item for section 3332 to read: "3332. Required direct deposit."

#### SEC. 403. FRANCHISE FUND PILOT PROGRAMS.

(a) ESTABLISHMENT.—There is authorized to be established on a pilot program basis in each of six executive agencies a franchise fund. The Director of the Office of Management and Budget, after consultation with the chairman and ranking members of the Committees on Appropriations and Governmental Affairs of the Senate, and the Committees on Appropriations and Government Operations of the House of Representatives, shall designate the agencies.

(b) USES.—Each such fund may provide, consistent with guidelines established by the Director of the Office of Management and Budget, such common administrative support services to the agency and to other agencies as the head of such agency, with the concurrence of the Director, determines can be provided more efficiently through such a fund than by other means. To provide such services, each such fund is authorized to acquire the capital equipment, automated data processing systems, and financial management and management information systems needed. Services shall be provided by such funds on a competitive basis.

(c) FUNDING.—(1) There are authorized to be appropriated to the franchise fund of each agency designated under subsection (a) such funds as are necessary to carry out the purposes of the fund, to remain available until expended. To the extent that unexpended balances remain available in other accounts for the purposes to be carried out by the fund, the head of the agency may transfer such balances to the fund.

(2) Fees for services shall be established by the head of the agency at a level to cover the total estimated costs of providing such services. Such fees shall be deposited in the agency's fund to remain available until expended, and may be used to carry out the purposes of the fund.

(3) Existing inventories, including inventories on order, equipment, and other assets or liabilities pertaining to the purposes of the fund may be transferred to the fund.

(d) REPORT ON PILOT PROGRAMS.—Within 6 months after the end of fiscal year 1997, the Director of the Office of Management and

Budget shall forward a report on the results of the pilot programs to the Committees on Appropriations of the Senate and of the House of Representatives, and to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives. The report shall contain the financial and program performance results of the pilot programs, including recommendations for—

- (1) the structure of the fund;
- (2) the composition of the funding mechanism;
- (3) the capacity of the fund to promote competition; and
- (4) the desirability of extending the application and implementation of franchise funds to other Federal agencies.

(e) PROCUREMENT.—Nothing in this section shall be construed as relieving any agency of any duty under applicable procurement laws.

(f) TERMINATION.—The provisions of this section shall expire on October 1, 1999.

#### SEC. 404. SIMPLIFICATION OF MANAGEMENT REPORTING PROCESS.

(a) IN GENERAL.—To improve the efficiency of executive branch performance in implementing statutory requirements for financial management reporting to the Congress and its committees, the Director of the Office of Management and Budget may adjust the frequency and due dates of or consolidate any statutorily required reports of agencies to the Office of Management and Budget or the President and of agencies or the Office of Management and Budget to the Congress under any laws for which the Office of Management and Budget has financial management responsibility, including—

- (1) chapters 5, 9, 11, 33, 35, 37, 39, 75, and 91 of title 31, United States Code;
- (2) the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note; Public Law 101-410; 104 Stat. 890).

(b) APPLICATION.—The authority provided in subsection (a) shall apply only to reports of agencies to the Office of Management and Budget or the President and of agencies or the Office of Management and Budget to the Congress required by statute to be submitted between January 1, 1995, and September 30, 1997.

(c) ADJUSTMENTS IN REPORTING.—The Director may consolidate or adjust the frequency and due dates of any statutorily required reports under subsections (a) and (b) only after—

- (1) consultation with the Chairman of the Senate Committee on Governmental Affairs and the Chairman of the House of Representatives Committee on Government Operations; and
- (2) written notification to the Congress, no later than February 8 of each fiscal year covered under subsection (b) for those reports required to be submitted during that fiscal year.

#### SEC. 405. ANNUAL FINANCIAL REPORTS.

(a) FINANCIAL STATEMENTS.—Section 3515 of title 31, United States Code, is amended to read as follows:

##### "§ 3515. Financial statements of agencies

"(a) Not later than March 1 of 1997 and each year thereafter, the head of each executive agency identified in section 901(b) of this title shall prepare and submit to the Director of the Office of Management and Budget an audited financial statement for the preceding fiscal year, covering all accounts and associated activities of each office, bureau, and activity of the agency.

"(b) Each audited financial statement of an executive agency under this section shall reflect—

"(1) the overall financial position of the offices, bureaus, and activities covered by the statement, including assets and liabilities thereof; and

"(2) results of operations of those offices, bureaus, and activities.

"(c) The Director of the Office of Management and Budget shall identify components of executive agencies that shall be required to have audited financial statements meeting the requirements of subsection (b).

"(d) The Director of the Office of Management and Budget shall prescribe the form and content of the financial statements of executive agencies under this section, consistent with applicable accounting and financial reporting principles, standards, and requirements.

"(e) The Director of the Office of Management and Budget may waive the application of all or part of subsection (a) for financial statements required for fiscal years 1996 and 1997.

"(f) Not later than March 1 of 1995 and 1996, the head of each executive agency identified in section 901(b) of this title and designated by the Director of the Office of Management and Budget shall prepare and submit to the Director of the Office of Management and Budget an audited financial statement for the preceding fiscal year, covering all accounts and associated activities of each office, bureau, and activity of the agency.

"(g) Not later than March 31 of 1995 and 1996, for executive agencies not designated by the Director of the Office of Management and Budget under subsection (f), the head of each executive agency identified in section 901(b) of this title shall prepare and submit to the Director of the Office of Management and Budget a financial statement for the preceding fiscal year, covering—

"(1) each revolving fund and trust fund of the agency; and

"(2) to the extent practicable, the accounts of each office, bureau, and activity of the agency which performed substantial commercial functions during the preceding fiscal year.

"(h) For purposes of subsection (g), the term 'commercial functions' includes buying and leasing of real estate, providing insurance, making loans and loan guarantees, and other credit programs and any activity involving the provision of a service or thing for which a fee, royalty, rent, or other charge is imposed by an agency for services and things of value it provides."

(b) AUDITS BY AGENCIES.—Subsection 3521(f) of title 31, United States Code, is amended to read as follows:

"(f)(1) For each audited financial statement required under subsections (a) and (f) of section 3515 of this title, the person who audits the statement for purpose of subsection (e) of this section shall submit a report on the audit to the head of the agency. A report under this subsection shall be prepared in accordance with generally accepted government auditing standards.

"(2) Not later than June 30 following the fiscal year for which a financial statement is submitted under subsection (g) of section 3515 of this title, the person who audits the statement for purpose of subsection (e) of this section shall submit a report on the audit to the head of the agency. A report under this subsection shall be prepared in accordance with generally accepted government auditing standards."

(c) GOVERNMENTWIDE FINANCIAL STATEMENT.—Section 331 of title 31, United States Code, is amended by adding the following new subsection:

"(e)(1) Not later than March 31 of 1998 and each year thereafter, the Secretary of the Treasury, in coordination with the Director of the Office of Management and Budget, shall annually prepare and submit to the President and the Congress an audited financial statement for the preceding fiscal year, covering all accounts and associated activities of the executive branch of the United States Government. The financial statement shall reflect the overall financial position, including assets and liabilities, and results of operations of the executive branch of the United States Government, and shall be prepared in accordance with the form and content requirements set forth by the Director of the Office of Management and Budget.

"(2) The Comptroller General of the United States shall audit the financial statement required by this section."

#### NOTICE OF HEARING

##### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BUMPERS. Mr. President, I would like to announce that a hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests.

The hearing will take place on Wednesday, October 5, 1994, beginning at 2 p.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the following bills:

S. 2280, to provide for an orderly process to ensure compensation for the termination of an easement or the taking of real property used for public utility purposes at the Manassas National Battlefield Park, Virginia, and for other purposes;

S. 2359, to modify the boundaries of Walnut Canyon National Monument in the State of Arizona;

S. 2434 and H.R. 3516, bills to increase the amount authorized to be appropriated for assistance for highway relocation regarding the Chickamauga and Chattanooga National Military Park in Georgia; and

H.R. 3905, to provide for the establishment and management of the Opal Creek Forest Preserve in the State of Oregon.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit a written statement is welcome to do so by sending two copies to the Committee on Energy and Natural Resources, 304 Dirksen Senate Office Building, Washington, DC, 20510.

For further information regarding the hearing, please contact Kira Finkler of the subcommittee staff at (202) 224-7933.

#### AUTHORITY FOR COMMITTEES TO MEET

##### COMMITTEE ON ARMED SERVICES

Mr. BOREN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to

meet on Wednesday, September 28, 1994, at 1 p.m., in open/closed session, to receive a briefing on the situation in Haiti.

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

##### COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BOREN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, September 28, beginning at 10 a.m. to conduct a hearing on the condition of the U.S. capital markets and globalization of world capital markets.

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

##### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BOREN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate. A business meeting will take place immediately after the 9:30, September 28, nomination hearing for the purpose of considering the nomination of Rhea L. Graham, nominee to be Director of the U.S. Bureau of Mines, Department of the Interior.

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

##### COMMITTEE ON FINANCE

Mr. BOREN. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet today, September 28, 1994, at 10 a.m., to consider S. 1834, the Superfund Reform Act of 1994.

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

##### COMMITTEE ON FOREIGN RELATIONS

Mr. BOREN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, September 28, at 9:30 a.m. to hold nomination hearings on David G. Newton, to be Ambassador to the Republic of Yemen.

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

##### COMMITTEE ON FOREIGN RELATIONS

Mr. BOREN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, September 28, at 10:30 a.m. to hold a hearing on the convention on the Conservation and Management of Pollock Resources in the Central Bering Sea—Treaty Doc. 103-27.

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

##### COMMITTEE ON FOREIGN RELATIONS

Mr. BOREN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, September 28, at 2 p.m. to hold nomination hearings on

the following Presidential Appointments:

1. Ms. Geraldine A. Ferraro, of New York, for the Rank of Ambassador during her tenure of service as U.S. Representative on the Human Rights Commission of the Economic and Social Council of the United Nations.

2. Mr. Thomas E. McNamara, of the District of Columbia, to be Assistant Secretary of State for Politico-Military Affairs.

3. Mr. Robert B. Fulton, of Pennsylvania, to be Associate Director for Information of the U.S. Information Agency.

4. Ms. Vonya B. McCann, of Maryland, for the rank of Ambassador during her tenure of service as Deputy Assistant Secretary of State for International Communications and Information Policy.

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

##### COMMITTEE ON THE JUDICIARY

Mr. BOREN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, September 28, 1994, at 10:30 a.m., in room 216 Senate Hart Office Building to consider the nominations of Sheldon C. Bilchik to be Administrator, Office of Juvenile Justice and Delinquency Programs, Department of Justice and Rose Ochi to be Associate Director, Bureau of State and Local Affairs, Office of National Drug Control Policy.

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

##### COMMITTEE ON THE JUDICIARY

Mr. BOREN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, September 28, 1994, at 2 p.m. in room 226 Senate Dirksen Office Building to consider the nominations of Fred I. Parker to be United States Circuit Judge for the second circuit, Helen W. Gillmor to be United States District Judge for the District of Hawaii, David A. Katz to be United States District Judge for the Northern District of Ohio, Sean J. McLaughlin to be United States District Judge for the Western District of Pennsylvania, William T. Moore to be United States District Judge for the Southern District of Georgia, Roslyn Moore-Silver to be United States District Judge for the District of Arizona and Alvin W. Thompson to be United States District Judge for the District of Connecticut.

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

##### COMMITTEE ON THE JUDICIARY

Mr. BOREN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Wednesday, September 28, 1994.

The PRESIDING OFFICER. Without objection it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. BOREN. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on Reform and Consolidation of Federal Job Training Programs, during the session of the Senate on September 28, 1994, at 10 a.m.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. BOREN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on September 28, 1994, at 4 p.m. to hold a closed hearing on intelligence matters.

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

SUBCOMMITTEE ON AFRICAN AFFAIRS

Mr. BOREN. Mr. President, I ask unanimous consent that the Subcommittee on African Affairs of the Committee on Foreign Relations, authorized to meet during the session of the Senate on Wednesday, September 28, 1994, at 2 p.m. to hold a hearing on African conflict resolution.

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

ADDITIONAL STATEMENTS

NO COMMUNITY IS ISOLATED

• Mr. HATFIELD. Mr. President, an essay by Jerry Timmons, a former associate editor of the Oregonian, came to my attention recently and I would like to take this opportunity to share it with my colleagues. In his article, Mr. Timmons makes clear that the divisions between rural and urban regions are on occasion artificial demarcations, the creation of which often works to the disadvantage of rural communities. His point that "rural issues affect everyone" is one I agree with fully. I urge my colleagues to consider the arguments presented by Mr. Timmons and to bear these comments in mind as issues affecting both communities come before the Senate.

The essay follows:

[From the Oregonian, July 26, 1994]

POPULATION SHIFT NOT AS IMPORTANT AS CROPS

(By Jerry Tippens)

Whatever did the western half of the country do to deserve the popular interpretation of the 1990 census? From the time the decennial data were assembled, the West has been bombarded by breathless pronouncements that the region is more urban than rural.

Imagine that. Of course, the population of the West has been more urban than rural for decades. Indeed, in a strict delineation between those who live in town and those who live in the country, even Harney County is more urban than rural.

It makes one wonder what the big deal was about the 1990 figures. Do they make rural issues somehow less important to the region and the nation than they would be if more people lived on the land?

Let us all hope not. But there is something disturbing about the way the findings are presented. The implication is that, since more people in the West live in cities than outside of them, it is all right to ignore rural issues and focus exclusively on urban ones. Indeed, it may be the proper course to follow.

That notion ought to sound the alarm for everyone concerned that decisions affecting food supply increasingly will be made by people who know nothing about food production because the population is drifting away from its agricultural ties.

The problem is that rural issues tend to affect everyone. We are all in trouble if that fades from urban view.

Even if rural matters weren't vital to all, however, the fact that more Westerners reside in cities than in the countryside does not mean that the region may simply turn its back on rural problems. Take a look at the map. The West is still mainly rural, even if most of the people are clustered in metropolitan concentrations along the Pacific shelf, plus a few inland enclaves in such places as Denver and Salt Lake City.

Wise use of the West's natural resources to produce food and fiber for the nation and much of the world is the urgent business of everyone in the country. It is incumbent upon all people, even those in the most urban settings of the East, to be knowledgeable about what transpires on the land out there where so few people live.

But that is especially true of those in Western cities where the wide open spaces are part of the neighborhood. Those spaces are neither barren wastelands nor playgrounds for leisure activity, but in fact form the foundation of the region's economy. They also contribute extensively to the nation's standing around the globe through its ability to feed itself and still have food enough for much of the rest of the world.

The urban and rural West ought to be in harmony on sound environmental practices, judicious use of limited water resources cleansed of pollution from the past, the gaining of maximum economic as well as nutritional returns from agricultural abundance, and population distribution to keep small communities healthy while preventing the cities from choking on congestion.

Such issues may reside in the rural West, but they are of equal importance to those who dwell in the urban West. The urban West, however, must realize as much. The cities must do better, for instance, in understanding the region of which they are a part than they did on airline deregulation. With vast distances and limited population, the West had an urgent stake in maintaining a reliable regional air transportation network. But the cities seemed more concerned about reduced fares to New York.

If food supply and international trade are to be ignored by most people because they live in the city, it is not just the rural West that is in trouble. It is the nation. It is the world.

That prospect is what's disturbing about the way the 1990 census figures of the West are presented. •

EPIC AWARD

• Mr. SIMON. Mr. President, I am proud to be able to announce Women

Employed as the first recipient of the Exemplary Public Interest Contribution [EPIC] Award presented by the Department of Labor.

It is not surprising that this outstanding community organization is based in Chicago, IL. And although Women Employed is well known for its grassroots efforts, it also has a widely respected national role as the lead advocacy organization on equal employment opportunity issues.

Mr. President, I ask to include into the RECORD following my remarks a statement by Women Employed that highlights why Anne Ladky, Nancy Krieter, and all the other hard working women at Women Employed are deserving of this first EPIC Award.

My sincere congratulations and best wishes.

The statement follows:

1994 EXEMPLARY PUBLIC INTEREST [EPIC] AWARD

INTRODUCTION

In the twenty-one years since its founding, Women Employed has played a critical role in many of the most important advances in women's employment rights and opportunities. WE began in 1973 as an advocacy organization aimed at improving working conditions and combatting discrimination in Chicago's downtown business district. Today, Women Employed is the foremost grassroots advocate for effective federal equal opportunity programs and a vital source of assistance for thousands of women seeking better opportunities. As Chicago's largest working women's organization, WE provides an extensive range of career development and job search services for its 1600 members.

Women Employed has long been recognized as the leading national monitor of the performance of the OFCCP and a key analyst of its policies.

Women Employed's role is unique because we combine our perspective as a representative of working women with extensive technical knowledge of the Executive Order and OFCCP. Since 1976, Women Employed has been responsible for convening regular meetings between the leading national civil rights and women's groups and every Secretary of Labor, Assistant Secretary of Labor (ESA), Solicitor of Labor and OFCCP Director in order to shape effective public policy. WE consults regularly with regional and national OFCCP staff to develop and refine regulatory issues, enforcement initiatives and recommendations for improving compliance review activity. Women Employed brings a critically needed grassroots view to its role in providing comprehensive technical research and analysis on women's EEO issues. We are called upon by Congress to testify about the effectiveness of affirmative action as well as OFCCP's mandate to enforce the Executive Order.

Women Employed was instrumental in negotiating affirmative action policies in major Chicago financial institutions and insurance companies, in response to working women's complaints about inaccessibility to promotions and higher-paying jobs. We worked closely with OFCCP staff to develop the concept of targeting industries for review and applying an affected class analysis to determine remedies for thousands of victims of discrimination. The organization was a key resource for Carter administration officials charged with reorganizing federal

equal opportunity agencies; we documented the need for consolidating all federal agency contract compliance activities into the OFCCP, a proposal which was adopted and implemented. WE worked closely with OFCCP, the Secretaries of Labor, and Congress to preserve the Executive Order when serious efforts to abolish it were initiated in the 1980's.

In 1989, Women Employed worked with the Solicitor's Office to reach a \$14 million back pay settlement in the Harris Bank case, the largest back pay settlement ever secured under the Executive Order. The Harris Bank case, developed and filed by WE in 1974, involved discriminatory hiring, placement, pay and promotion practices. WE's documentation of the bank's practices, our development of key anecdotal and statistical evidence, and fourteen years of persistent pressure resulted in remedies for 8000 women and minorities. The case established the validity of third party representation on behalf of large numbers of victims whose anonymity was protected; it also upheld the legal principle underpinning the requirement of backpay under the Executive Order. The methodology developed in this case continues to be applied in reviews of all types of federal contractors where class-wide discrimination is uncovered by OFCCP.

Women Employed has successfully brought together constituency groups and federal contractors to explore effective approaches to improve equal opportunity practices and increase employment access for women and minorities.

Women Employed has implemented a model partnership between women's and civil rights groups and corporations who are major federal contractors as well as leaders in EEO and affirmative action. Chicago Area Partnership (CAPS), composed of thirteen corporations with national headquarters or substantial operations in Chicago, local civil rights and women's organizations, and the Region V OFCCP staff holds monthly meetings that have resulted in on-going and frank dialogue about human resource challenges. The beginning phases included lively discussions concerning our perspectives of and biases about each other, development of a list of cutting-edge issues the group was interested in pursuing, and an executive examination of the crucial elements of mobility and diversity. CAPS fulfills two significant purposes. First, it brings together important players to network and communicate different perspectives and practices. Second, it provides opportunities to collaborate on specific EEO/HR projects. CAPS has committed to undertake three specific projects: creating a "best practices" document focusing on glass ceiling issues, improving linkages with community-based organizations to provide entry level employment opportunities, and collaboration on federal EEO regulatory reform. The group intends to become a model for productive collaboration that can be replicated nationally. OFCCP's participation has encouraged CAPS in this direction.

Women Employed is an excellent source of qualified female applicants for federal contractors seeking to meet affirmative action requirements.

The organization is the largest provider of career development and job search services to women in the Chicago metropolitan area. We maintain an on-going job bank available at no charge to our 1,600 members which lists federal contractors' current job openings. Our Career Development Network links members currently employed in major companies in all industries at all employment

levels with members who are job-seeking or considering career changes. We offer job search seminars and career awareness programs to our members and the general public.

Keys To Success, a pre-employment training program serving approximately 100 women annually, enables displaced homemakers to make the transition into the paid workforce, and provides highly motivated job candidates to Chicago-area employers. Keys To Success offers employers, including federal contractors, a job placement service that sends employers only pre-screened candidates, provides quick access to a pool of highly motivated candidates, and lowers employee turnover.

We build relationships with Chicago area employers to offer them a pool of qualified female candidates while helping women find economically self-sufficient employment. Our job developer works closely with federal contractors seeking female and minority candidates for a variety of positions.

We especially promote and encourage non-traditional opportunities for women seeking employment, pre-apprenticeship programs, or other training and apprenticeship programs. Women Employed leads a statewide effort to increase the participation of women in training programs leading to employment in non-traditional occupations. We are also designing a pre-technical training program for women to be launched on a pilot basis in the fall of 1994. We anticipate that program graduates will be able to fill the need for qualified applicants for entry-level technical and mechanical jobs.

#### CONCLUSION

Over the past two decades, Women Employed has played a unique role in promoting equal employment opportunity. Our advocacy at both the national and local levels has helped numerous OFCCP administrations shape effective public policy. We have built strong relationships with federal contractors in an effort to encourage voluntary programs to improve equal opportunity practices and increase employment access for women and minorities. Women Employed has provided thousands of working women with training, counseling and job referral services. •

#### HONORING JUSTICE ROSALIE WAHL

• Mr. DURENBERGER. Mr. President, I rise today to celebrate the career of a distinguished jurist and a great Minnesotan. On August 31, Justice Rosalie Wahl—the senior member of the Minnesota Supreme Court—retired after 17 distinguished years on the bench.

In 1977, Rosalie Wahl made history when Governor Rudy Perpich appointed her to our State's high court. She was the very first woman to serve in that capacity—and throughout her years on the court, she served with great intelligence and independence of spirit.

A woman of firm feminist convictions, she was notable for putting the law ahead of her personal preferences. In a notorious rape case, she dissented in favor of the defendant because she believed his rights had been violated. She recognizes that impartiality in the execution of justice is the most difficult—and the most necessary—element of the work of a judge.

Rosalie Wahl is a very impressive Justice, and the pride of the Minnesota legal system. She will be missed as a judge—but all those of us who are fortunate enough to know her personally will continue to treasure her friendship.

Mr. President, I ask my colleagues to join me in congratulating this distinguished justice on the occasion of her retirement.

I ask that a profile of Justice Wahl from the August issue of *Bench & Bar* be included in the *RECORD* at the conclusion of my remarks.

The profile follows:

#### JUSTICE IS A WOMAN (By Gwenyth Jones)

You didn't give the Supreme Court to a woman "in those days," any more than you gave a little girl a toy gun or a boy a doll for Christmas, says former Chief Justice Douglas K. Amdahl. It just didn't occur to the male legal establishment to think of a woman justice. "Those days" were before Rosalie Wahl was appointed to the Minnesota Supreme Court in 1977. And, says Amdahl, as her appointment ended the males-only era, her retirement August 31 will confirm the new era, one in which the appointment of a woman to the Court draws no particular notice.

Justice Wahl is now senior member of the Court and one of a female majority, although the Court has yet to have a female chief justice. During her tenure she helped initiate and chaired task forces which made intensive studies of racial and gender bias in the Minnesota justice system, served on the American Bar Association's accreditation committee, was chair of that committee, and eventually chair of the Section on Legal Education and Admissions to the Bar.

Wahl was appointed by Gov. Rudy Perpich, who had specifically promised to name a woman to the first Supreme Court vacancy in January, 1977.

Minnesota feminists had kept Perpich's promise in mind. When there was a rumor in May that Justice Harry MacLaughlin might be appointed to the federal bench, the Minnesota Woman Lawyers had the names of seven women ready to recommend as his replacement. These they circulated in a letter sent to women activists throughout the state. Ironically, Wahl was never identified as a "favorite" in any of the speculative news coverage that followed. Every one of the other women on the list eventually became a judge and one of them, Esther Tomljanovich, eventually joined Justice Wahl on the Supreme Court.

Perpich had never met Wahl; she was one of three "finalists" named by a nonlawyer committee he asked to find suitable candidates. He said he felt the court was tilted toward justices with corporate law and prosecutorial backgrounds. The governor interviewed all three finalists and, he says, was particularly impressed by Wahl's work directing the criminal practice clinic at William Mitchell College of Law. Recently, with just a touch of disappointment in his voice, he said he had hoped she would be "another Miles Lord." Lord, whom Perpich greatly admires, is a former attorney general and federal judge known by many for his activist devotion to the underdog, and criticized by others for what they consider undignified, even improper conduct. Perpich insists he wasn't disappointed in Wahl, however.

(She says, "I don't have it in me to be Miles Lord.")

## RUNNING WATER AND OTHER PERKS

Justice Wahl describes her attitude when she first came on the bench as one almost of awe: "It's so nice of you to let me come in, I'll obey the rules." She says she "didn't realize the prerogatives of power." When asked what prerogatives she means, she doesn't talk about limousines or private dining rooms (although the Court has the latter) but things like the authority to order certificates of appreciation for volunteer workers on court-appointed task forces, or to express her views when she swore people into office.

One prerogative Justice Wahl didn't have was a private rest room—there wasn't any women's rest room in the Court wing of the Capitol then. She and staff women had to use the public rest room off the rotunda until, several years later, after the chief justice's secretary petitioned the Court, a women's rest room was installed inside the Court precincts.

Wahl was named in June but didn't take her seat on the Court until October, because she couldn't be officially appointed until Justice MacLaughlin resigned, and he was waiting for his nomination to the federal bench to be confirmed. She made use of the time to read the cases that would be coming before the Court that fall so she'd be prepared to hit the ground running. She also called on each justice. They knew her through hearing her argue almost 100 cases, but she didn't know any of them. (Chief Justice Robert Sheran had one advantage over his fellows: He had 18 years' experience working with a woman professionally—Charlotte Farrish was senior partner of their law firm in Mankato.) Justice Wahl asked the justices for advice on proper behavior for justices and what activities she would have to give up. (She stayed on the mailing list of the Minnesota Women's Consortium to "read about all those things that I couldn't do, but were getting done.")

When the justice lined up to enter the courtroom for Justice Wahl's first session, Justice Walter Rogosheske opened the door for her. "Oh, you don't need to open the door for me," she said, but Justice Rogosheske, a warm and courtly man, replied, "As long as we serve together, I'll open the door for you."

"She was very persuasive and had her share of cases where she changed the Court's mind," remembers Amdahl. "She could call me an idiot and make me like it," says Chief Justice A.M. Keith.

The Court had had experience with her outspokenness when she was arguing a criminal case. Dismayed by some of the questions from the justices, she declared, "I can't believe this court agrees with the proposition that only the innocent are entitled to a fair trial."

## A TOUGH ELECTION BATTLE

About ten months after she took her seat, Justice Wahl had to defend herself in what was surely the most interesting and perhaps the dirtiest judicial campaign in the state's history. None of the three men—two district judges and a former short-term attorney general—who ran against her in the primary would admit that the fact that she was a woman had anything to do with it. But the conventional wisdom was that a woman incumbent would be easier to beat and before she even took her seat, Wahl had predicted she would be opposed. The men said they were running because she didn't have enough experience, although she had argued cases before the Supreme Court for ten years and had directed the William Mitchell criminal law program for four years. Second District

Judge J. Jerome Plunkett, one of her primary opponents, described the program as "showing [the students] where the criminal court was" or "taking high school students and having them sit in on a day in court." Actually, under the Student Practice Rule, the senior students handled misdemeanor cases from beginning to end, preparing them under Wahl's supervision and presenting them in court under the supervision of public defenders.

Plunkett also objected to support given Justice Wahl by the Lawyers Volunteer Committee to Retain Incumbent Justices. The committee (to which Plunkett had contributed previously) had existed for years, and had always supported any incumbent justice who was opposed. In the 1978 election, although only Justice Wahl was opposed in the primary, Justice C. Donald Peterson was opposed in the general election, and they ran a joint campaign. When Plunkett lost out in the primary he refused to endorse Justice Wahl, saying he didn't think it appropriate for a judge to make an endorsement in a "political" race.

Women of all political shades worked on Justice Wahl's campaign. And women lawyers, many of whom had not been politically active, also joined in. Among her public supporters there were also men from both parties, among them a former Republican governor. The campaign included all the kinds of activities of the usual political race except those Justice Wahl thought might not fit the dignity of a judicial election. (No pressing the flesh in shopping malls.)

There was a citizens volunteer committee; there were fund-raising coffee parties and lunches in elegant Lake Minnetonka houses, talks to clubs, an ice cream social, even—a rarity in those days—an appearance on a radio call-in show. Twice, once by car and once by chartered plane, Justice Wahl made a campaign swing around the state with hour-by-hour schedules and interviews lined up with local newspapers and radio stations in half a dozen towns.

After the primary, which eliminated the two trial judge candidates, the Minnesota State Bar Association took its traditional plebiscite on judicial candidates and Wahl got 2,547 votes to 779 for Robert Mattson Sr., the other survivor of the primary. Soon afterwards Mattson began attacks on her which were strongly resented by many of the bar. First he filed a formal complaint with the Ethical Practices Board, charging that her campaign committees were illegally organized. The board, which had previously approved the organization, dismissed the complaint.

Mattson was quoted on several occasions as saying that Justice Wahl had taken positions "contrary to Minnesota law" when she dissented on some criminal cases. The majority opinion was the law, Mattson declared. He also charged her with favoring a convicted rapist, perhaps with an eye to dampening her support among women. She had not hesitated to be the only dissenter from the decision upholding the conviction because she believed the defendant's rights had been violated. Despite her own feminist convictions, she has dissented since in other, similar cases, thereby earning the professional dislike of many prosecutors. (One, hearing that this article was to be written, exclaimed, "I hope it's not going to be a tribute!")

Mattson also charged that Justice Wahl hadn't carried her weight during the year she had been on the Court, and hadn't written as many opinions as the other justices.

However, he didn't cite any figures and the rotation system by which justices are assigned cases from the calendar means that all of them write approximately the same number of opinions, plus any dissents they may write. When it was apparent that she would have a tough election campaign, Chief Justice Sheran offered to assign her fewer cases, but she refused, since it would have meant an extra burden for other justices.

In October, Mattson ran a series of advertisements in the Twin Cities newspapers. One attacked Justice Wahl for her vote in the rape case. It said Mattson, in contrast, believed in "judicial support for the police." Another said Justice Wahl had "lost 95 percent of her cases." C. Paul Jones, state public defender at the time, says the ad apparently referred to post-conviction-remedy cases Wahl had argued for his office and says she "won every case that possibly could have been won by any attorney anywhere."

Justice Wahl and her supporters sang hymns around the piano in the University Club while waiting for election returns, which gave her 57 percent of the votes and Mattson 43 percent.

## COMPANY ON THE COURT

She was the only woman on the Court for five years, and on the last day before Jeanne Coyne was to be sworn in, Justices Wahl and James Otis, whom Coyne succeeded, were the only members of the Court around at lunchtime. They went down to the cafeteria where reporter Betty Wilson was standing next to them in the line. Said Wilson, "Well Justice Wahl, tomorrow you'll have company on the Court." Justice Otis drew himself up and replied: "I'll have you know she has always had company on the Court."

Justice Coyne was appointed by Gov. Al Quie, who had refused to talk about the possibility of naming a woman or minority, saying he didn't think it right to name anyone because of his or her sex or color of skin. (He appointed two men before Coyne was named.) He says, "She was the best candidate offered to me."

There could hardly have been a greater contrast between two career women than there was, outwardly, between Justices Wahl and Coyne. Justice Wahl was married and had four children before she went to night law school, and gave birth to her fifth child while she was a student. (She was divorced in 1972.) Her legal experience was all in criminal defense of indigents. She is an outgoing person who doesn't hesitate to go around a table in a public restaurant embracing everyone. Justice Coyne, who is unmarried, is a reserved, quiet person who admits that some people consider her "formidable." She was an accountant before she went to the University of Minnesota Law School, and immediately after graduation got a job with Meagher Geer, who, she says, "turned me loose." Her practice covered real estate, tax and estate planning, and related fields. At one time she was up for consideration for the 8th Circuit Court of Appeals and got as far as going to Washington to be "vetted." But she killed any chance she had by saying, after being escorted around, questioned by one person after another, "Nobody has asked me whether I'm interested in this job."

Both women shun labels. Although Justice Coyne admits to being more "conservative" than the rest of the Court, she says she doesn't mind being the only conservative, pointing out that she was the only woman in a firm of about 20 men for years. She says some things happened to her during her practice that might have been considered sexual harassment, but she was too busy to pay attention, adding, "Nobody ever took me lightly twice."

Justice Coyne says she believed the biggest thing she could do for other women who might aspire to come after her was "to be a really good, competent lawyer." But she helped organize the Minnesota Women Lawyers, and, when the Equal Rights Amendment was under consideration, she was a member of a speakers bureau which went out campaigning for the ERA.

Justice Wahl says she didn't realize until after Justice Coyne came to the Court "that I really had been alone, in a way." All the men were friendly and helpful, she says, but there are some little things one woman can share with another that she can't with a man.

Another thing Justice Wahl says she didn't realize at first was "how many male lawyers there seemed to be who had spent their careers positioning themselves to get on the Supreme Court" and resented not being named. Through the grapevine she heard of remarks made at bar social events like "I worked so hard all these years and see what happens."

Since the Court has had a four-to-three female majority, there has never been a down-the-line gender division on any case, according to Chief Justice Keith; but when Justices Wahl and Coyne were still the only women they dissented together in two cases (Abuzzahad and McClelland) denying permanent maintenance to women divorced after several decades of a traditional marriage. "The men on the Court were generally good on gender discrimination," Justice Wahl says, "but they just couldn't understand the situation of a woman of 50 or 55 with a permanently diminished earning capacity."

#### IN HER OPINION(S)

The opinions Justice Wahl wrote which she particularly remembers range from ruling that witnesses can't testify about things they remember under hypnosis to giving confidentiality protection to group therapy sessions. The latter case came when the Court's calendar was so crowded—about 1,500 cases a year—that it frequently issued summary affirmations, or decided cases without oral arguments, and the group therapy case almost fell through the cracks. But Justice Wahl felt the public interest was at stake, not just one defendant's, and persuaded the Court to give the case a full hearing with amicus briefs.

Minnesota lawyers are indebted to Justice Wahl for one of her memorable cases: The Court ruled police could not get a warrant authorizing the search of a lawyer's entire office if they wanted material concerning one client who was under investigation. The Court said police would have to subpoena the specific file, which a judge would then review in camera.

But Justice Wahl's biggest satisfaction has been "just knowing my being here has made a difference. Maybe not as much difference as I think needs to be made, but I did make a difference."

Chief Justice Keith says Justice Wahl "created the sense of fairness on the Court," and thinks that in the long run her greatest contribution will have been her work on the gender and racial bias task forces.

Only two of Justice Wahl's five children are connected with the law: Sarah, whose husband, Michael Davis, was recently appointed a federal judge, is in the Hennepin County Attorney's office and her youngest daughter, Jenny, is in the Management Information Service Department (MIS) of Fredrikson & Byron in Minneapolis. She has six grandchildren, ranging from one and a half months to 24 years old.

Sarah Wahl has always been in the county attorney's civil division, with offices far from the criminal division, but she occasionally hears remarks from prosecuting colleagues like, "Well, I see your mother has done it again" when Justice Wahl has voted for reversal on due process grounds.

Justice Wahl refuses to lay out a schedule for her retirement. First she's going to relax, because she wants "to see if there's any cream to rise to the top." Then, she says, "I'll try to find things that are important for me to do that might not be done if I don't do them." •

#### SUPPORT MACEDONIA NOW

• Mr. DECONCINI. Mr. President, a major meeting of the Conference on Security and Cooperation in Europe—commonly known as the CSCE or Helsinki process—will convene in Budapest on October 10, only a few weeks away. This meeting will assess the situation in places like the Balkans, Central Asia, the Caucasus, and the emerging democracies of East-Central Europe generally, with a heavy focus on human rights and building democratic institutions.

Unique among European institutions, the CSCE seeks to include all countries of the region, and the smallest participant has the same rights and privileges as the largest and most powerful. Unfortunately, of the entire CSCE region, one, and only one, country is actually being denied full membership. That country is Macedonia. Macedonia, a former Yugoslav Republic, wants to be a member, and deserves to be a member, but has so far been restricted to observer status. Greece has continually denied the consensus needed for full membership. Greece claims its northern neighbor to be a threat, by its flag, its constitution, and its very name.

I have been to Macedonia twice, and communicated with its leaders, representatives of its Albanian community and, of course, with Greek officials here and in Greece regarding this important issue. I would like to suggest a few important points.

There is a complex historical debate over what Macedonia is, and who Macedonians are. It is clear, however, that Macedonia did not seek the breakup of Yugoslavia. It only has sought to cope with the fact that it did breakup, leaving a choice between independence or being an appendage to the repressive and chauvinist Greater Serbia that remained. It certainly did not advocate the use of force to resolve differences or to achieve its objectives. As it embarks on its course of independent statehood, Macedonia has had to cope with the collapse of the Yugoslav economy of which it was an integrated and dependent part. It has had to enforce the international sanctions on Serbia to the north, and it had to contend with its own ethnic diversity, which includes a sizable ethnic Albanian community. From the beginning, it met

the European criteria for recognition used for the other former Yugoslav Republics.

Yet, recognition by most of Europe was delayed by over 1 year. It took the United States almost another year to recognize it. We still do not have full and formal diplomatic relations, even though we have over 500 Americans there as part of the U.N. peacekeeping contingent. And Macedonia still is being blocked from full participation in the CSCE. Greek objections have been supplemented this year by an economic blockade on its northern neighbor designed to pressure Macedonia into agreeing to Greek demands. Macedonia, while defending its positions, has demonstrated its willingness to, but cannot submit to economic coercion which violates the spirit of the CSCE.

And, regardless of our own individual readings of Balkan history, the Macedonia people genuinely believe themselves to be ethnic Macedonians, and their country to be Macedonia. This will remain the case, no matter what Greece or anybody else tries to tell them, and to try to convince them otherwise only generates resentment. Holding to their Macedonian national identity in no way means the people of Macedonia have any claims on Greece or any other neighbor. Do not people have the right to their own self-identification?

Not only is blocking Macedonian membership wrong, it is dangerous. Macedonia has avoided major violence so far, but history shows the potential it has to explode with violence. Macedonia has been the focus and victim of wars several times this century. Today, with war nearby in Bosnia and Herzegovina, severe repression next door in Kosovo, and tensions throughout the Balkan region, we cannot afford to risk the further destabilization of Macedonia. The presence of U.N. peacekeeping forces demonstrates international concern over the threat of destabilization.

Blocking Macedonian membership is also counterproductive. There are some nationalists in Macedonia, but no more—and probably less—so than in virtually any other country in the region. The flag, and perhaps some parts of the constitution, indicate their presence. Macedonia, again like others who nevertheless are CSCE members, has difficulties in the transition to democracy. However, by isolating the country, do we do more to encourage extreme Macedonian nationalism than to discourage it? Can we not accomplish more to build democracy in Macedonia by including it in European affairs politically and economically?

Mr. President, I think it not only appropriate but necessary for Macedonia to become a full member of the CSCE in Budapest, and I am urging the State Department to push hard for this. The

U.S. Delegation and a majority of the present CSCE States not only support Macedonian membership, but lament its continued denial. Budapest is not only a major conference, however, it begins the week before Macedonia holds elections, the first multiparty elections since achieving independent statehood. Movement in the CSCE would go far in demonstrating support for democracy in Macedonia at this critical time. And, while we are at it, the United States needs to move beyond merely recognizing Macedonia. The United States should immediately establish full bilateral relations with Macedonia, and Greece needs to be persuaded that the blockade it has unilaterally imposed on Macedonia must be lifted. •

#### UNITED STATES-JAPAN TRADE TALKS

• Mr. ROCKEFELLER. Mr. President, I wish to express encouragement and support to our trade negotiators who are once again entering the 11th hour in negotiations with Japan over their unfair trade practices. We have learned from previous administrations, who have backed down in the face of Japanese intransigence, that only firm and consistent pressure will make sustained progress on this most intractable of bilateral trade problems.

Sustaining such pressure may be particularly difficult right now because I sense that many people may have tired of the struggle. We have worked so hard for so many years to penetrate the Japanese market, it is no surprise that people are weary. We have had to expend enormous amounts of government and private sector energy to make even modest inroads. Yet it is precisely at this point, when the long-term economic fundamentals in both Japan and the United States are moving in our favor, that we should continue to apply pressure.

That is why earlier in this Congress I introduced, with House Majority Leader GEPHARDT, the Fair Market Access Act of 1994 (S. 1872). The goal of our bill is to apply consistent pressure by establishing a structure for setting measurable targets for our trade negotiators in order to give the administration and its successors more tools in the seemingly never-ending fight to open Japan's markets. I did not pursue S. 1872 this year in large part because I wanted to see how the framework talks would conclude. I still hold out hope that our outstanding differences will be settled, and I applaud President Clinton and Ambassador Kantor who have rightfully set real results and real market access as their goals.

Those results must include progress in reducing the cartel behavior that blocks many United States goods and services from being imported into Japan. Agreements that tear down

these barriers, open Japan's market to United States imports, and are backed by measurable criteria for assessing progress, will provide enormous benefits to the economies of the United States, Japan, and the entire world.

A recent article by Clyde Prestowitz and Alan Tonelson of the Economic Strategy Institute makes this case in plain dollar figures. They estimate that Japan's trade barriers are costing the United States \$50 billion in annual exports; \$50 billion, and as many as 1 million jobs. Worldwide, Japan's trade barriers are depressing global economic output by \$400 billion. That is a staggering amount.

And let's not be fooled by those who say we are merely trying to export America's economic problems to Japan. For years, Japan pleaded with us to cut our budget deficit, and President Clinton finally did it to the tune of \$500 billion over 5 years. The biggest budget cut the world has ever seen.

Nor can American lack of competitiveness be blamed here either. American businesses, from heavy industry to high technology, have made a remarkable turnaround in recent years. Yet, as Prestowitz and Tonelson point out, this has had no positive impact on exports to Japan, despite the fact that the yen continues to rise and make our products cheaper. Indeed, that very increase is compelling evidence of the rigidities in their economy that cause them to pile up huge surpluses.

In fact, the whole point of the framework talks was to pinpoint precisely those areas where the Japanese Government plays a role in maintaining trade barriers and where the United States is most competitive around the world. The framework emphasized areas such as Government procurement of high technology telecommunications and medical equipment, major sectors such as automobiles and auto parts, regulatory reform in services like insurance, and areas where we already had agreements, such as in flat glass.

Everywhere else in the world American industries in these sectors not only are competitive, they are doing well. Yet in Japan, our businesses face hurdle after hurdle. Distribution networks closed to our products; customs practices that stall our products at the docks; regulations that are impossible for foreign companies to comply with; practices that are as effective as an embargo; and cartels, keiretsus, that block our companies from entering anywhere in the vertical supply chain. Add to this continual changes at the top of the Government—four prime ministers in 1 year—and a bureaucracy that is accountable to no one and you have a perfect mix for intransigence.

President Clinton and our trade negotiators should not feel the slightest doubt from this Congress about the importance of standing firm on resolu-

tions of these issues. The consequences of Japan's market barriers are not abstractions or minor irritants. They have direct effects on the industries, their workers and families, and communities in our States. West Virginia is full of industries, large and small, that make products for sale all over the world. We know we have to compete, and as part of a country that is an open lane to our trading partners who import their products, services, and goods to buyers in the United States. But West Virginians expect their Government and this Congress to insist on a two-way street with Japan. As Japan takes advantage of the international marketplace to build its economy, it cannot continue protecting its own industries from the rest of us.

The only way we can respond is to be resolute and to make clear that we won't settle for a bad deal. A credible threat of sanctions seems to be the only way to convince the Japanese to come to terms and make an enforceable deal. The cellular agreement that Motorola negotiated earlier this year is a perfect example. We cited Japan for not complying with previous agreements, and with the threat of imminent sanctions hanging over their head, they finally came to the table and negotiated a reasonable deal. To abandon the quest for more successes like this at this critical juncture would send exactly the wrong signals to currency markets and our other trading partners.

With respect to the specifics of the talks, it is important to note that the sectors on the table were not chosen haphazardly. We specifically identified areas where American industry is most competitive, and where we could identify a legitimate market opportunity in Japan.

I want to focus on two of the framework sectors to show just how strong our position is: flat glass and telecommunications procurement.

Flat glass includes items like insulating glass, safety glass, and high performance coated glass. American flat glass makers are globally competitive—with market shares approaching 25 percent in Europe and Latin America—yet the United States has less than 1 percent of Japan's \$4.5 billion glass market, and our minimal market share has continued to experience a year-to-year decline in both absolute and percentage terms. In sharp contrast, Japanese glass makers account for 20 percent of United States sales.

The explanation? A cartel of three Japanese companies has divided the market for two decades, maintaining steady market shares in a 5-3-2 ratio. This cartel perpetuates the closed distribution system that represents the most egregious market barrier facing U.S. glass makers. With few exceptions, each of the approximately 400 wholesalers and distributors of flat

glass in Japan represent only one Japanese manufacturer. Only a small handful of distributors with nominal market share are even willing to handle imported glass. Japan even acknowledges the cartel, admitting in a Japan Fair Trade Commission report that there is a "state of monopoly by three makers, pricing by consensus, and creation of sales networks of distribution by each maker."

To correct this imbalance, Japan promised in a 1992 "Action Plan" signed by President Bush and Prime Minister Miyazawa to "substantially increase market access for competitive foreign flat glass manufacturers." Two years later, it is clear from the numbers that this commitment has not been kept. Despite active bilateral negotiations, Japan has failed to take meaningful action and is in effective violation of our trade agreement. And that is why 6 months ago the trade representative's office identified in its National Trade Estimates Report access to Japan's flat glass market as a priority foreign trade objective.

The other area I want to comment on today is Government procurement, specifically of telecommunications equipment. Japan is planning to invest nearly half a trillion dollars in telecommunications infrastructure over the next 15 to 20 years. Half a trillion dollars of real money, real jobs, and real market opportunities for American companies and companies from around the world. Overall procurement plans by the Japanese Government over the coming decade are among the most significant market opportunities in the world. Our negotiators must be resolute. It is vital that American industry has a fair opportunity to compete for that business.

America is the world leader in information technologies. Our fiber optics and ATM switching and wireless communications are second to none, just to name a few of the telecommunications technologies that the Japanese telecommunications company, NTT, will deploy in its network. If we have an open and nondiscriminatory opportunity to sell in the NTT market, we will win a major share of it. Unfortunately, NTT has had a history of discrimination against foreign manufacturers. Since the agreement that was signed in the early 1980's to open the NTT market, foreigners have gained only a 6 percent market share. This is far below the market share United States companies have been able to command in the non-NTT telecommunications market in Japan and in other export markets. The evidence here is clear, NTT has discriminated against United States companies, and the Government, through the Ministry of Finance, still has both legal and effective control of NTT. The Government can clearly solve this problem if it wants to.

These are just two of the areas where we are negotiating with Japan. They are particularly important to the glass workers of my State of West Virginia. This part of our economy that makes advanced glass products—things like fiber optics and technologically advanced flat glass—has generated new jobs over the last 10 years, and it is critical that we fight for their access to markets worldwide.

The other areas we are negotiating with the Japanese are mightily important, too. Our autos are competitive the world over; yet you could drive on the streets of Tokyo for hours without seeing an American car. Our auto parts are state of the art, but the Japanese inspection system effectively keeps them out of the market for replacement parts. From medical technologies to service sector regulations, our negotiators must stand tough and make good deals. If the Japanese cannot be brought into agreements that will mean real results, real market access, then we must take appropriate action.

Such action is not my goal. What I want to see, and what these industries want to do, is the selling of United States products in Japan. But if Japan will not come to reasonable agreement in these most reasonable areas, then we must do what is necessary. No more empty promises and vague statements of intent.

I beseech Japan's leaders and negotiators to recognize the reasons that they should give our industries and products the same treatment that they expect and get all over the world including in the United States. I urge President Clinton and Ambassador Kantor to fulfill their obligation both to America's interests and the principle of fair trade that should be the basis of the strengthened relationship that we seek with Japan.●

#### HONORING JACK HORNER

● Mr. DURENBERGER. Mr. President, I rise today to honor one of the preeminent figures in the history of Minnesota broadcasting.

Next week, my friend Jack Horner will receive the 1994 Pioneer Broadcaster Award from the Minnesota Broadcasters Association. This award could not be more appropriate, because in the State of Minnesota, Jack Horner was the pioneer broadcaster.

The history of American broadcasting in this century has exactly two parts—before TV and after. In Minnesota, Jack Horner was the man who first scouted this Continental Divide.

On December 7, 1947, Jack became the first person ever to appear on television, not just in Minnesota but in the entire midwestern United States. His broadcast lasted 25 minutes—during which he introduced film clips of football games and the marriage of England's then-Princess Elizabeth.

If Jack's sole lifetime achievement had been standing in front of the camera that day, his name would still be remembered today. But his historic broadcast in 1947 was just one episode in a breathtaking career that has spanned nearly five decades.

When Jack Horner started out in broadcasting, the New Deal was still new. It was 1935 when a 22-year-old Jack joined KGFK radio in Moorhead, MN—and he was already doing play-by-play coverage of basketball the following year. After a number of broadcasting jobs around the Midwest, Jack came to the Twin Cities in 1944—and prepared to inaugurate the age of television.

Since 1947, Jack has put together a monumental record of Minnesota broadcasting firsts. First baseball game televised in Minnesota (1947). First University of Minnesota football telecast (1948). First ever TV appearance by the internationally renowned Harlem Globetrotters (1949). The list goes on.

For four decades, Jack Horner has been welcomed into hundreds of thousands of living rooms. Countless families welcome his voice—and I speak on their behalf when I say "Thank you, Jack, for giving us your work over the last forty years."

I myself grew up in rural Minnesota, with a dad who was athletic director at St. John's University. My window on sports outside of SJU was "Jack Horner's Corner"—and I thank Jack for the memories.

Mr. President, I ask my colleagues to join me in wishing this historic broadcaster—this good friend—and his wife Cel our warmest congratulations on this richly deserved award.●

#### JAPAN'S BID FOR A PERMANENT SEAT ON THE U.N. SECURITY COUNCIL

Mr. ROTH. Madam President, since the end of the cold war, the United Nations and its most important decision-making body, the Security Council, have assumed more prominent roles in addressing global problems.

During the past 5 years, the Security Council has authorized more peacekeeping operations and passed almost half as many resolutions as it did during its first 45 years. Despite the increased activity, the Security Council has remained essentially unchanged since it was established at the end of World War II.

To enable the Security Council to better address the expanded range and number of problems it now confronts, the General Assembly last year adopted a resolution requesting that all member nations provide suggestions on restructuring the Security Council. Close to 80 countries responded. More than 40 suggested that Japan take a permanent seat on the Security Council.

After all, with the world's second largest economy, Japan would seem a logical choice for permanent membership in a restructured Security Council. In its statement of support, the United States said that Japan should gain a permanent seat because Tokyo has achieved a level of global influence greater than most of the current permanent members.

Other supporters pointed to Japan's position as the United Nations' second largest financial contributor and the world's largest provider of overseas development assistance.

Yesterday, Japan's Foreign Minister, in a speech before the U.N. General Assembly, made the most direct official statement ever on Japan's desire to gain a permanent seat on the Security Council.

The Foreign Minister, however, began his speech by stating what Japan would not do as a permanent member of the Security Council, rather than listing the activities which it would perform in such a capacity.

Today, the United States Ambassador to Japan, Fritz Mondale, made plain President Clinton's backing for Japan's position.

The Ambassador said that United States "Government support is rock solid," and that the United States sees no requirement "that permanent members of the Security Council participate in U.N. peacekeeping operations."

Fritz is an old friend of mine, and a man I hold in great respect. Yet I believe he overstated his case: Since January of this year the Senate has twice passed resolutions suggesting United States support for Japan's bid for a permanent seat, but only contingent on Tokyo taking steps necessary for the country to fully engage in any form of U.N. peacekeeping or peacemaking operation. Japan currently is incapable of such engagement.

And given the Foreign Minister's speech, Tokyo now clearly has no intention of removing obstacles to its full engagement in such operations. Therefore, the only solid opinion expressed by the Senate—that of opposition to Japan's bid for a permanent seat under these circumstances—has only been hardened.

As I have stated before, and as my colleagues in this body have unanimously agreed, the special status conferred by permanent membership entails special responsibilities. In particular, permanent members must be able to participate in any form of operation they themselves authorize through the Security Council, including any form of peacekeeping or peacemaking operation.

If Japan were to obtain a permanent seat now, the country would be given an opportunity to endorse U.N. missions that endangered the lives of citizens of other countries but in which Japan itself could play no role. Not

only would Japan be courting the sort of criticism it received during the gulf war, other countries could well encounter greater domestic opposition to putting their own personnel at risk.

In either case, the effectiveness of the Security Council in handling the United Nations' most important work—that of making decisions on guarding the peace—would be compromised.

The Japanese Foreign Minister's remarks yesterday were premised on currently accepted interpretations of the country's Constitution as forever renouncing the use of force—even under U.N. mandate—as a means of problem solving.

What is crucial to recognize, however, is that Japan's current interpretation of its constitution was shaped as much—if not more—by the country's economic self-interest than by any idealistic desire to serve as a model peaceful state. In the aftermath of World War II, had Japan accepted an interpretation permitting it to participate in collective security arrangements, precious resources would have been diverted from the country's push to regain economic strength and achieve its century-old goal of catching up with the West.

Now that the goal has been realized, it is more important than ever to understand that the American framers of Japan's Constitution never intended to prohibit Japan from participating in collective security arrangements or U.N. peacekeeping activities.

Moreover, the key Japanese official involved in fostering the currently accepted constitutional interpretation, Prime Minister Shigeru Yoshida, foresaw the need for Japan to take on added responsibilities once the country prospered. Yoshida believed that other nations would never tolerate Japan receiving special international status once it caught up economically with the West.

Prime Minister Yoshida's strategy of avoiding collective security arrangements through constitutional interpretation brilliantly laid the groundwork for Japan's remarkable postwar economic success. I believe his views on how Japan's international role, and hence constitutional interpretation, would have to change after that success was achieved were just as farseeing.

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

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

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

#### HOUSE OF REPRESENTATIVES CAMPAIGN SPENDING LIMIT AND ELECTION REFORM ACT OF 1993

Mr. BOREN. Madam President, I ask the Chair to lay before the Senate a message from the House of S. 3, the Campaign Finance Reform Act.

The PRESIDING OFFICER. The clerk will state the message.

The legislative clerk read as follows:

*Resolved*, That the bill from the Senate S. 3, entitled "An act entitled the 'Congressional Spending Limit and Election Reform Act of 1993,'" do pass with amendments.

The PRESIDING OFFICER. The question is on the motion to request a conference on the disagreeing votes of the two Houses.

#### CLOTURE MOTION

Mr. BOREN. Madam President, I send to the desk a cloture motion on the motion to request a conference and ask unanimous consent that with respect to this cloture vote, the mandatory quorum be waived as required under rule XXII.

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

The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the motion to request a conference with the House on the disagreeing votes of the two Houses with respect to S. 3, the Campaign Finance Reform Act:

David Boren, Wendell Ford, Dennis DeConcini, Patrick Leahy, Harris Wofford, Chris Dodd, Carl Levin, Paul Wellstone, John F. Kerry, Barbara Boxer, Bob Graham, Tom Dashchle, David Pryor, Byron L. Dorgan, Joe Biden, Herb Kohl.

#### MORNING BUSINESS

Mr. BOREN. Madam President, I now ask unanimous consent that there be a period of morning business with Senators permitted to speak therein for up to 5 minutes each.

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

#### EXECUTIVE SESSION

#### EXECUTIVE CALENDAR

Mr. BOREN. Madam President, I now ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar order 1192, 1193, 1194, 1195, 1196,

1197, 1199, 1200, 1201, 1202, 1203, 1204, 1205, 1206, 1207, 1208, 1209, 1210, 1212, 1214, 1215, 1216, 1217, 1218, 1219, 1220, 1221, 1222, 1223, 1224, 1277, 1278, 1283, 1284, 1285, 1286, 1287, and all nominations placed on the Secretary's Desk in the Army, Coast Guard, and Navy. 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 on the table en bloc; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

#### DEPARTMENT OF THE TREASURY

Frank N. Newman, of California, to be Deputy Secretary of the Treasury.

Edward S. Knight, of Texas, to be General Counsel for the Department of the Treasury.

#### DEPARTMENT OF STATE

Kenneth Spencer Yalowitz, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Belarus.

Alfred H. Moses, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Romania.

Charles E. Redman, of Florida, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal Republic of Germany.

Mare Grossman, of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Turkey.

Ivan Selin, of the District of Columbia, to be an Alternate Representative of the United States of America to the Thirty-eighth Session of the General Conference of the International Atomic Energy Agency.

Nelson F. Stevering, Jr., of Maryland, to be an Alternate Representative of the United States of America to the Thirty-eighth Session of the General Conference of the International Atomic Energy Agency.

John B. Ritch III, of the District of Columbia, to be an Alternate Representative of the United States of America to the Thirty-eighth Session of the General Conference of the International Atomic Energy Agency.

#### THE JUDICIARY

William C. Bryson, of Maryland, to be U.S. Circuit Judge for the Federal Circuit.

Sarah S. Vance, of Louisiana, to be U.S. District Judge for the Eastern District of Louisiana.

Salvador E. Casellas, of Puerto Rico, to be U.S. District Judge for the District of Puerto Rico.

Daniel R. Dominguez, of Puerto Rico, to be U.S. District Judge for the District of Puerto Rico.

Stanwood R. Duval, Jr., of Louisiana, to be U.S. District Judge for the Eastern District of Louisiana.

Frederic Block, of New York, to be U.S. District Judge for the Eastern District of New York.

John Gleeson, of New York, to be U.S. District Judge for the Eastern District of New York.

Allyne R. Ross, of New York, to be U.S. District Judge for the Eastern District of New York.

Shira A. Scheindlin, of New York, to be U.S. District Judge for the Southern District of New York.

Robert N. Chatigny, of Connecticut, to be U.S. District Judge for the District of Connecticut.

#### DEPARTMENT OF JUSTICE

John Michael Bradford, of Texas, to be U.S. Attorney for the Eastern District of Texas for the term of 4 years.

Ronald Joseph Boudreaux, of Louisiana, to be U.S. Marshal for the Middle District of Louisiana for the term of 4 years.

Norris Batiste, Jr., of Texas, to be U.S. Marshal for the Eastern District of Texas for the term of 4 years.

John David Crews, Jr., of Mississippi, to be U.S. Marshal for the Northern District of Mississippi for the term of 4 years.

Walter D. Sokolowski, of Pennsylvania, to be U.S. Marshal for the Middle District of Pennsylvania for the term of 4 years.

Edward Joseph Kelly, Jr., of New York, to be U.S. Marshal for the Northern District of New York for the term of 4 years.

Delissa A. Ridgway, of the District of Columbia, to be Chairman of the Foreign Claims Settlement Commission of the United States for a term expiring September 30, 1997. (Reappointment.)

John R. Lacey, of Connecticut, to be a Member of the Foreign Claims Settlement Commission of the United States for the term expiring September 30, 1995.

#### ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Thomasina V. Rogers, of Maryland, to be Chairman of the Administrative Conference of the United States for the term of 5 years.

#### DEPARTMENT OF JUSTICE

Michael Johnston Gaines, of Arkansas, to be a Commissioner of the U.S. Parole Commission for the remainder of the term expiring November 1, 1997.

Aileen Catherine Adams, of California, to be Director of the Office for Victims of Crime. (New Position.)

#### COAST GUARD

The following Regular officers of the U.S. Coast Guard for promotion to the grade of rear admiral:

Gordon G. Piche.

Paul M. Blayney.

The following Regular officers of the U.S. Coast Guard for promotion to the grade of rear admiral (lower half):

Fred L. Ames.

Richard M. Larrabee III.

John T. Tozzi.

Thomas H. Collins.

Ernest R. Riutta.

#### DEPARTMENT OF VETERANS AFFAIRS

Kenneth W. Kizer, of California, to be Under Secretary for Health of the Department of Veterans Affairs for a term of 4 years.

#### AIR FORCE

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.

The following-named officers for appointment in the United States Air Force to the grade of major general under the provisions of title 10, United States Code, section 624:

#### REGULAR AIR FORCE

#### To be major general

Brig. Gen. Jerrold P. Allen, 009-30-6342.

Brig. Gen. Allen D. Bunger, 430-80-3653.

Brig. Gen. Stewart E. Cranston, 265-70-8502.

Brig. Gen. Robert S. Dickman, 150-34-8510.

Brig. Gen. William J. Donahue, 401-58-3904.

Brig. Gen. Robert W. Drewes, 060-34-6657.

Brig. Gen. Patrick K. Gamble, 533-44-2878.

Brig. Gen. Francis C. Gideon, Jr., 284-40-8826.

Brig. Gen. Edward F. Grillo, Jr., 265-80-7008.

Brig. Gen. John W. Handy, 241-68-5379.

Brig. Gen. Charles R. Heflebower, 467-68-8234.

Brig. Gen. Henry M. Hobgood, 243-72-9213.

Brig. Gen. Hal M. Hornburg, 455-72-6836.

Brig. Gen. Normand G. Lezy, 035-26-0318.

Brig. Gen. Donald E. Loranger, Jr., 517-46-2623.

Brig. Gen. John M. McBroom, 223-58-8526.

Brig. Gen. George K. Muellner, 340-36-4452.

Brig. Gen. Robert F. Raggio, 564-58-7255.

Brig. Gen. John B. Sams, Jr., 252-70-6470.

Brig. Gen. Michael C. Short, 522-58-9016.

Brig. Gen. Rondal H. Smith, 413-72-4443.

#### ARMY

The U.S. 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 officers 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.

Wayne D. Marty, 458-66-9856.

#### IN THE ARMY, COAST GUARD, AND NAVY

Army nominations beginning George D. Baxter, and ending Michael H. Taylor, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 5, 1993.

Army nominations beginning George R. Allen, and ending Thomas E. Wolford, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 8, 1994.

Army nominations beginning Richard W. Atwood, and ending Ruth A. Wilcox, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 27, 1994.

Coast Guard nominations beginning Robert W. Vail, and ending Philip M. Sanders, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 9, 1994.

Coast Guard nominations beginning William C. Paradise, and ending Ronald W. Branch, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 12, 1994.

Coast Guard nominations beginning Thomas J. Haas, and ending Robert C. Ayer, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 12, 1994.

Navy nominations beginning Thor Davis Aakre, and ending Allan Kay Zweifel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 19, 1994.

## STATEMENT ON THE NOMINATION OF KENNETH W. KIZER

Mr. ROCKEFELLER. Madam President, I am pleased to support the nomination of Kenneth W. Kizer, M.D., to be the Under Secretary for Health for the Department of Veterans Affairs. The VA Under Secretary for Health is one of the most important public servants. If confirmed, Dr. Kizer will guide the VA medical system—the Nation's largest health care system—into the next century.

I recently had the chance to meet with Dr. Kizer and to discuss the job he will have of providing health care to the men and women who have served this Nation. I have also had the opportunity to read his answers to prehearing questions and to hear his testimony at a September 13, 1994, committee hearing on his nomination. Dr. Kizer has expressed his belief that services provided to veterans at VA medical facilities across the country should be easily accessible, compassionate, and of superior quality. I wholeheartedly agree and feel that Dr. Kizer has the intelligence, the experience, and the drive to maintain this special obligation to our Nation's veterans.

Dr. Kizer is professor and chairman of the department of community and international health at the University of California, Davis, School of Medicine. Before his position in academe, Dr. Kizer was director of the California Department of Health Services, serving as the chief health official for the Nation's largest State health agency. Prior to his appointment, Dr. Kizer served as chief deputy director and chief of public health for the California Department of Human Services, and before that as director of California's Emergency Medical Services Authority.

Dr. Kizer is a fellow of the American College of Emergency Physicians, the American Academy of Toxicology, the American College of Occupational and Environmental Medicine, the American College of Preventive Medicine, the Royal Society of Health, and the Royal Society of Medicine. Dr. Kizer has medical specialty board certification in emergency medicine, medical toxicology, occupational medicine, and general preventive medicine and public health.

Dr. Kizer received his bachelor of science degree in biological sciences from Stanford University in 1972, and his doctor of medicine and masters of public health degrees from UCLA in 1976. He undertook postgraduate medical training with the U.S. Navy and the University of California, San Francisco.

Dr. Kizer has demonstrated that he understands the huge responsibility that would be his. He has responded openly to questions from Senator MURKOWSKI and myself at the committee hearing, and in addition to the prehear-

ing questions, he has completed the committee's questionnaire. On September 23, the committee voted unanimously to approve Dr. Kizer's nomination. I know of no opposition to his nomination.

Madam President, in my view, Dr. Kizer is well qualified for this important position. He would bring to it a strong mix of private sector and public section health care management experience. Because the Veterans Health Administration has been without leadership for far too long, I urge my colleagues to approve the nomination.

## THE NOMINATION OF DR. KENNETH KIZER

Mr. MURKOWSKI. Madam President, it has now been over a year and a half since the incoming administration removed VA's theoretically nonpartisan Under Secretary for Health. I did not object to that action because I know that America's veterans, and the Congress, will hold both Secretary Brown and the administration accountable for the state of veterans' health care on their watch and I can understand why the Secretary and the administration would want their own person as Under Secretary for Health.

As the head of the Veterans Health Administration [VHA], the Under Secretary for Health holds one of the most important, and most challenging, offices in the Federal Government.

As Under Secretary, Dr. Kenneth Kizer will be responsible for a budget of almost \$17 billion, a staff of over 200,000, a physical plant of 171 medical centers and hundreds of outpatient clinics, and—most importantly—the health of the 2½ million veterans who will turn to VA for medical care in the year to come.

The critical importance of the Under Secretary's mission, the awesome reach of his or her responsibilities, combined with the demonstrated talent and unquestioned qualifications that Dr. Kenneth Kizer will bring to VA, explain why I urge the Senate to confirm Dr. Kizer to be VA's Under Secretary for Health.

That importance of that mission, and the scope of those responsibilities, also explain why I am frustrated that this vote takes place only during the waning days of the 103d Congress.

Too much time has passed between the forced departure of the last Under Secretary and Dr. Kizer's nomination. The Senate did not receive Dr. Kizer's nomination until July 29, 1994. The Committee on Veterans' Affairs held a hearing on September 13 and voted unanimously to approve the nomination on September 23. The delay in filling this critical leadership position is not the responsibility of the Senate and I regret that the Veterans' Health Administration has gone so long without a confirmed leader because of the administration's failure to send a nomination to the Senate.

I applaud Dr. Kizer for agreeing to serve as head of the Veterans Health

Administration. The challenges he will face will be daunting. The constraints under which he will have to operate will be crushing. The responsibilities he will assume will literally include questions of life and death. His reward for faithful service is likely to include a generous measure of second guessing.

He will assume responsibility for the Veterans Health Administration at a time when American health care is re-making itself. The practice of medicine is changing at a pace that can hardly be measured, much less explained. The transition away from hospital care to outpatient care may be only the most visible example.

The organization of medicine is also undergoing profound changes as the Federal Government debates the funding and administration of care while at the same time the individual States enact their own health care reform legislation. VA must adapt to this changing environment if it is to continue to provide quality care to America's veterans.

Dr. Kizer will assume responsibility for laying the foundation for a 21st century health care system while at the same time operating a network of hospitals constructed to fulfill a vision of health care as it was understood at the end of World War II, a half century ago.

His success will depend upon his willingness to make significant changes, to ask unpopular questions, and to propose bold changes in course. None of those actions will be easy. Many, perhaps most, will be controversial.

But I believe that neither the Congress, nor the veterans we serve, are, or can be, satisfied by the status quo. And I do not believe that VA can make significant improvements by continuing to do only what has been done before.

If Dr. Kizer proposes a course toward more ambulatory care, I hope he can count on the support of the Senate, even if that course comes at the expense of medically excessive, but locally popular, inpatient capacity.

If Dr. Kizer proposes to integrate VA health care more closely with other community and Federal providers, I hope he can count on the support of the Senate if his proposals will improve health care for veterans.

If he shifts VA's focus away from the bricks and mortar of its buildings and toward health care services for veterans, I will applaud his actions. If he transfers authority away from bureaucrats in Washington and empowers VA's leadership in the field, I will stand by his side.

Dr. Kenneth Kizer has agreed to accept a very difficult mission and I commend him for his courage and for his commitment to America's veterans. He can not succeed in that mission without the support of the Congress and I urge my colleagues to join me in not only supporting his confirmation as Under Secretary for Health but to also

join me in supporting him as he begins the difficult task of reinventing the VA health care system while at the same time continuing to provide quality health care to millions of America's veterans.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

#### MEASURE PLACED ON THE CALENDAR

Mr. BOREN. Madam President, I ask unanimous consent that H.R. 4924 relating to the conservation of rhinoceroses and tigers just received from the House be placed on the calendar.

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

#### GOVERNMENT MANAGEMENT REFORM ACT OF 1994

Mr. BOREN. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 458, S. 2170, the Government Management Reform Act of 1994.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows.

A bill (S. 2170) to provide a more effective, efficient and responsive government.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2598

Mr. BOREN. On behalf of Senators GLENN and ROTH, I send an amendment to the desk and I ask for its immediate consideration; that the amendment be agreed to, and that the motion to reconsider be laid upon the table.

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

Mr. GLENN. Madam President, Senator ROTH and I urge our colleagues' support for this manager's amendment to S. 2170, the Government Management Reform Act of 1994. This legislation is based in large part on recommendations of the National Performance Review contained in H.R. 3400 and passed by the House of Representatives last year. The bill was reported favorably by the Committee on Governmental Affairs on March 23, 1994. Amendments are made for technical corrections and to reflect the jurisdictions of our committee and our counterpart committee, the House Government Operations Committee.

This bipartisan initiative is designed to improve the economy and efficiency of Government operations, and to strengthen Government's financial ac-

countability. The legislation expands the Chief Financial Officers Act of 1990, which has helped the Government to reduce waste, fraud and abuse, and to support agencies in making more informed spending decisions. S. 2170 would require major agencies to produce audited financial statements for all accounts; the bill also requires a governmentwide audited financial statement. The legislation includes an initiative that will save Government administrative costs by encouraging the use of electronic funds transfer [EFT] for paying Federal employees and retirees. Additionally, the bill establishes a pilot program for franchise funds to help agencies lower costs and share such common administrative services as data processing and payroll.

We believe this bipartisan bill is important to our shared goal of a Government that works better and costs less. Strengthening the stewardship of Federal resources will improve services, save money and make Government more accountable to the taxpayer. We urge your support. I ask unanimous consent that a summary of our amendment and its changes be printed in the RECORD.

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

#### S. 2170 MANAGER'S AMENDMENT—BRIEF SUMMARY

Section 101: Limitation on certain annual pay adjustments. Requires that any annual "automatic" adjustments (COLAs) to the salaries of members of Congress, the Executive Schedule, or the judiciary would not exceed that given to General Schedule Federal employees.

Section 202: SES annual leave accumulation. Amends Title 5 to establish a limitation for members of the Senior Executive Service to accrue up to 90 days of annual leave.

Section 301: Authority to increase efficiency in reporting to Congress. Directs the Office of Management and Budget to work with Congressional Committees to streamline, consolidate and eliminate duplicative or obsolete reports to Congress.

Section 402: Electronic payments. This provision strengthens the ability of Federal agencies to expand conversion to electronic delivery of payments to Federal employees and retirees.

Section 403: Franchise fund pilot programs. Provides for the authorization of six pilot franchise funds to help lower costs and share common administrative services. Funds will adhere to all applicable Federal financial management laws and terminate October 1, 1999.

Section 404: Simplification of management reporting process. Directs the Office of Management and Budget to work with the Senate Governmental Affairs Committee and House Government Operations Committee to streamline and consolidate financial management reports from the agencies to OMB and from OMB to the Congress.

Section 405: Annual financial reports. Starting in 1997, all 24 agencies covered under the Chief Financial Officers Act are required to produce audited financial statements for all activities. Starting in 1998, the government will produce an audited consoli-

dated financial statement of all 24 CFO Act agencies.

#### SUMMARY OF MANAGER'S AMENDMENT CHANGES TO S. 2170

Section 102: Reduction of Federal full-time equivalent positions and Section 201: Federal workforce training—The sections are struck because the provision is unnecessary; they are similar but inconsistent in their details with the provisions signed into law as part of P.L. 103-226, The Federal Workforce Restructuring Act, shortly after the markup of S. 2170.

Section 302: Transfer of Davis-Bacon Functions—The section is struck because of objections to shifting certain Davis Bacon Act debarment and disbursement functions from the General Accounting Office to the Department of Labor.

Section 402: Electronic Payments—Subsection (f) is struck because it could be interpreted as preventing the government from encouraging recipients of Social Security or Railroad Retirement benefits to receive payments by electronic means.

Section 403: Franchise Fund Pilot Programs—Subsections (3) and (4) are struck because the Congressional Budget Office has determined that the use of agency unobligated balances to establish franchise funds would violate Budget Act rules and constitute a "pay-go" situation. The number of pilots are increased from four to six in order for the Administration to experiment with establishing competition for administrative services to drive down costs and reduce duplication in agencies. A technical provision is added to allow agencies to capitalize certain administrative equipment into the franchise fund pilots. Another change vests authority to select pilots in the Director of OMB, instead of the President.

Section 405: Annual Financial Reports—A technical change clarifies that the Treasury Department will prepare the statement in accordance with the form and content requirements set forth by the Director of OMB.

Section 406-410: Contracts for Collection of Services and Adjusting Civil Monetary Penalties for Inflation—These sections are struck because of issues of Committee jurisdiction in the House of Representatives and because of objections to the civil monetary penalties adjustment provisions.

Mr. ROTH. Madam President, I am pleased to join with Senator GLENN in bringing to the floor the Government Management Reform Act of 1994. The managers' amendment to this bill modifies it, so that it now focuses on several widely supported improvements in Federal management systems, including greater use of electronic payment to Federal employees, simplification of the management reporting process, and several pilot projects in the use of franchise funds within Federal agencies.

Probably the most significant reform mandated by the bill is the requirement for annual agencywide audited financial statements for the 23 major agencies covered by the Chief Financial Officers Act of 1990, along with the requirement for an annual governmentwide audited financial statement.

The pilot projects conducted under the CFO Act have shown the great value in requiring agencies to develop annual financial statements that are

then audited. These audits have confirmed what we have long suspected—that Federal agencies have a great deal of work ahead if they are to come into the modern age of effective governmental financial management. It is important that Congress not only mandate these new requirements, but that it be fully supportive of agency efforts to comply.

In the shorter term, the payoff will be much more accurate numbers in reports that track how much agencies have actually spent, what their assets are worth, what outstanding obligations they have accrued, how much they are owed, and similar figures.

In the longer term, however, I would hope for an even greater payoff. Under the recently enacted Government Performance and Results Act, starting in 1997 Federal agencies will have to begin developing 5-year strategic plans, annual performance plans, and annual performance reports. The annual reports will have to show the measurable performance goals for each program, compared to the actual results. The legislation specifically envisions that these reports might be combined with the audited financial statements.

If this merging of the reports happens, and it is done properly, we will begin to see a very powerful set of reports flowing from the agencies—each showing how much was actually spent in each program area, along with what was actually achieved with respect to activity levels and program results. In other words, for the first time we will really see what we are getting for our money, ideally on a cost-per-unit basis.

I urge the support of my colleagues for this important addition to our tools for improving governmental accountability.

So the amendment (No. 2598) was agreed to.

(The amendment is printed in today's RECORD under "Amendments Submitted.")

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2170

*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 "Government Management Reform Act of 1994".

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

Sec. 1. Short title and table of contents.

**TITLE I—LIMITATION ON PAY**

Sec. 101. Limitation on certain annual pay adjustments.

**TITLE II—HUMAN RESOURCE MANAGEMENT**

Sec. 201. SES annual leave accumulation.

**TITLE III—STREAMLINING MANAGEMENT CONTROL**

Sec. 301. Authority to increase efficiency in reporting to Congress.

**TITLE IV—FINANCIAL MANAGEMENT**

Sec. 401. Short title.

Sec. 402. Electronic payments.

Sec. 403. Franchise fund pilot programs.

Sec. 404. Simplification of management reporting process.

Sec. 405. Annual financial reports.

**TITLE I—LIMITATION ON PAY**

**SEC. 101. LIMITATION ON CERTAIN ANNUAL PAY ADJUSTMENTS.**

Effective as of December 31, 1994—

(1) section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31(2)) is amended—

(A) by striking out "(2) Effective" and inserting in lieu thereof "(2)(A) Subject to subparagraph (B), effective"; and

(B) by adding at the end thereof the following:

"(B) In no event shall the percentage adjustment taking effect under subparagraph (A) in any calendar year (before rounding), in any rate of pay, exceed the percentage adjustment taking effect in such calendar year under section 5303 of title 5, United States Code, in the rates of pay under the General Schedule.";

(2) section 104 of title 3, United States Code, is amended—

(A) in the first sentence by inserting "(a)" before "The";

(B) in the second sentence by striking out "Effective" and inserting in lieu thereof "Subject to subsection (b), effective"; and

(C) by adding at the end thereof the following:

"(b) In no event shall the percentage adjustment taking effect under the second and third sentences of subsection (a) in any calendar year (before rounding) exceed the percentage adjustment taking effect in such calendar year under section 5303 of title 5 in the rates of pay under the General Schedule.";

(3) section 5318 of title 5, United States Code, is amended—

(A) in the first sentence by striking out "Effective" and inserting in lieu thereof "(a) Subject to subsection (b), effective"; and

(B) by adding at the end thereof the following:

"(b) In no event shall the percentage adjustment taking effect under subsection (a) in any calendar year (before rounding), in any rate of pay, exceed the percentage adjustment taking effect in such calendar year under section 5303 in the rates of pay under the General Schedule.";

(4) section 461(a) of title 28, United States Code, is amended—

(A) by striking out "(a) Effective" and inserting in lieu thereof "(a)(1) Subject to paragraph (2), effective"; and

(B) by adding at the end thereof the following:

"(2) In no event shall the percentage adjustment taking effect under paragraph (1) in any calendar year (before rounding), in any salary rate, exceed the percentage adjustment taking effect in such calendar year under section 5303 of title 5 in the rates of pay under the General Schedule.";

**TITLE II—HUMAN RESOURCE MANAGEMENT**

**SEC. 201. SES ANNUAL LEAVE ACCUMULATION.**

(a) **IN GENERAL.**—Effective on the first day of the first applicable pay period beginning after the date of the enactment of this Act, subsection (f) of section 6304 of title 5, United States Code, is amended to read as follows:

"(f)(1) This subsection applies with respect to annual leave accrued by an individual while serving in a position in—

"(A) the Senior Executive Service;

"(B) the Senior Foreign Service;

"(C) the Defense Intelligence Senior Executive Service;

"(D) the Senior Cryptologic Executive Service; or

"(E) the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service.

"(2) For purposes of applying any limitation on accumulation under this section with respect to any annual leave described in paragraph (1)—

"(A) '30 days' in subsection (a) shall be deemed to read '90 days'; and

"(B) '45 days' in subsection (b) shall be deemed to read '90 days'."

(b) **USE OF EXCESS LEAVE.**—Notwithstanding the amendment made by subsection (a), in the case of an employee who, on the effective date of subsection (a), is subject to subsection (f) of section 6304 of title 5, United States Code, and who has to such employee's credit annual leave in excess of the maximum accumulation otherwise permitted by subsection (a) or (b) of section 6304 (determined applying the amendment made by subsection (a)), such excess annual leave shall remain to the credit of the employee and be subject to reduction, in the same manner as provided in subsection (c) of section 6304.

**TITLE III—STREAMLINING MANAGEMENT CONTROL**

**SEC. 301. AUTHORITY TO INCREASE EFFICIENCY IN REPORTING TO CONGRESS.**

(a) **PURPOSE.**—The purpose of this title is to improve the efficiency of executive branch performance in implementing statutory requirements for reports to Congress and committees of Congress such as the elimination or consolidation of duplicative or obsolete reporting requirements and adjustments to deadlines that shall provide for more efficient workload distribution or improve the quality of reports.

(b) **AUTHORITY OF THE DIRECTOR.**—The Director of the Office of Management and Budget may publish annually in the budget submitted by the President to the Congress, recommendations for consolidation, elimination, or adjustments in frequency and due dates of statutorily required periodic reports to the Congress or committees of Congress. For each recommendation, the Director shall provide an individualized statement of the reasons that support the recommendation. In addition, for each report for which a recommendation is made, the Director shall state with specificity the exact consolidation, elimination, or adjustment in frequency or due date that is recommended.

(c) **RECOMMENDATIONS.**—The Director's recommendations shall be consistent with the purpose stated in subsection (a).

(d) **CONSULTATION.**—Before the publication of the recommendations under subsection (b), the Director or his designee shall consult with the appropriate congressional committees concerning the recommendations.

**TITLE IV—FINANCIAL MANAGEMENT**

**SEC. 401. SHORT TITLE.**

This title may be cited as the "Federal Financial Management Act of 1994".

**SEC. 402. ELECTRONIC PAYMENTS.**

(a) **IN GENERAL.**—Section 3332 of title 31, United States Code, is amended to read as follows:

**§ 3332. Required direct deposit**

"(a)(1) Notwithstanding any other provision of law, all Federal wage, salary, and retirement payments shall be paid to recipients of such payments by electronic funds transfer, unless another method has been determined by the Secretary of the Treasury to be appropriate.

"(2) Each recipient of Federal wage, salary, or retirement payments shall designate one or more financial institutions or other authorized payment agents and provide the payment certifying or authorizing agency information necessary for the recipient to receive electronic funds transfer payments through each institution so designated.

"(b)(1) The head of each agency shall waive the requirements of subsection (a) of this section for a recipient of Federal wage, salary, or retirement payments authorized or certified by the agency upon written request by such recipient.

"(2) Federal wage, salary, or retirement payments shall be paid to any recipient granted a waiver under paragraph (1) of this subsection by any method determined appropriate by the Secretary of the Treasury.

"(c)(1) The Secretary of the Treasury may waive the requirements of subsection (a) of this section for any group of recipients upon request by the head of an agency under standards prescribed by the Secretary of the Treasury.

"(2) Federal wage, salary, or retirement payments shall be paid to any member of a group granted a waiver under paragraph (1) of this subsection by any method determined appropriate by the Secretary of the Treasury.

"(d) This section shall apply only to recipients of Federal wage or salary payments who begin to receive such payments on or after January 1, 1995, and recipients of Federal retirement payments who begin to receive such payments on or after January 1, 1995.

"(e) The crediting of the amount of a payment to the appropriate account on the books of a financial institution or other authorized payment agent designated by a payment recipient under this section shall constitute a full acquittance to the United States for the amount of the payment."

(b) **TECHNICAL AND CONFORMING AMENDMENT.**—The table of sections for chapter 33 of title 31, United States Code, is amended by amending the item for section 3332 to read:

"3332. Required direct deposit."

**SEC. 403. FRANCHISE FUND PILOT PROGRAMS.**

(a) **ESTABLISHMENT.**—There is authorized to be established on a pilot program basis in each of six executive agencies a franchise fund. The Director of the Office of Management and Budget, after consultation with the chairman and ranking members of the Committees on Appropriations and Governmental Affairs of the Senate, and the Committees on Appropriations and Government Operations of the House of Representatives, shall designate the agencies.

(b) **USES.**—Each such fund may provide, consistent with guidelines established by the Director of the Office of Management and Budget, such common administrative support services to the agency and to other agencies as the head of such agency, with the concurrence of the Director, determines can be provided more efficiently through such a fund than by other means. To provide such services, each such fund is authorized to acquire the capital equipment, automated data processing systems, and financial management and management information systems needed. Services shall be provided by such funds on a competitive basis.

(c) **FUNDING.**—(1) There are authorized to be appropriated to the franchise fund of each agency designated under subsection (a) such funds as are necessary to carry out the purposes of the fund, to remain available until expended. To the extent that unexpended balances remain available in other accounts for the purposes to be carried out by the fund, the head of the agency may transfer such balances to the fund.

(2) Fees for services shall be established by the head of the agency at a level to cover the total estimated costs of providing such services. Such fees shall be deposited in the agency's fund to remain available until expended, and may be used to carry out the purposes of the fund.

(3) Existing inventories, including inventories on order, equipment, and other assets or liabilities pertaining to the purposes of the fund may be transferred to the fund.

(d) **REPORT ON PILOT PROGRAMS.**—Within 6 months after the end of fiscal year 1997, the Director of the Office of Management and Budget shall forward a report on the results of the pilot programs to the Committees on Appropriations of the Senate and of the House of Representatives, and to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives. The report shall contain the financial and program performance results of the pilot programs, including recommendations for—

- (1) the structure of the fund;
- (2) the composition of the funding mechanism;
- (3) the capacity of the fund to promote competition; and
- (4) the desirability of extending the application and implementation of franchise funds to other Federal agencies.

(e) **PROCUREMENT.**—Nothing in this section shall be construed as relieving any agency of any duty under applicable procurement laws.

(f) **TERMINATION.**—The provisions of this section shall expire on October 1, 1999.

**SEC. 404. SIMPLIFICATION OF MANAGEMENT REPORTING PROCESS.**

(a) **IN GENERAL.**—To improve the efficiency of executive branch performance in implementing statutory requirements for financial management reporting to the Congress and its committees, the Director of the Office of Management and Budget may adjust the frequency and due dates of or consolidate any statutorily required reports of agencies to the Office of Management and Budget or the President and of agencies or the Office of Management and Budget to the Congress under any laws for which the Office of Management and Budget has financial management responsibility, including—

- (1) chapters 5, 9, 11, 33, 35, 37, 39, 75, and 91 of title 31, United States Code;
- (2) the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note; Public Law 101-410; 104 Stat. 890).

(b) **APPLICATION.**—The authority provided in subsection (a) shall apply only to reports of agencies to the Office of Management and Budget or the President and of agencies or the Office of Management and Budget to the Congress required by statute to be submitted between January 1, 1995, and September 30, 1997.

(c) **ADJUSTMENTS IN REPORTING.**—The Director may consolidate or adjust the frequency and due dates of any statutorily required reports under subsections (a) and (b) only after—

- (1) consultation with the Chairman of the Senate Committee on Governmental Affairs and the Chairman of the House of Represent-

atives Committee on Government Operations; and

(2) written notification to the Congress, no later than February 8 of each fiscal year covered under subsection (b) for those reports required to be submitted during that fiscal year.

**SEC. 405. ANNUAL FINANCIAL REPORTS.**

(a) **FINANCIAL STATEMENTS.**—Section 3515 of title 31, United States Code, is amended to read as follows:

**§ 3515. Financial statements of agencies**

"(a) Not later than March 1 of 1997 and each year thereafter, the head of each executive agency identified in section 901(b) of this title shall prepare and submit to the Director of the Office of Management and Budget an audited financial statement for the preceding fiscal year, covering all accounts and associated activities of each office, bureau, and activity of the agency.

"(b) Each audited financial statement of an executive agency under this section shall reflect—

- "(1) the overall financial position of the offices, bureaus, and activities covered by the statement, including assets and liabilities thereof; and
- "(2) results of operations of those offices, bureaus, and activities.

"(c) The Director of the Office of Management and Budget shall identify components of executive agencies that shall be required to have audited financial statements meeting the requirements of subsection (b).

"(d) The Director of the Office of Management and Budget shall prescribe the form and content of the financial statements of executive agencies under this section, consistent with applicable accounting and financial reporting principles, standards, and requirements.

"(e) The Director of the Office of Management and Budget may waive the application of all or part of subsection (a) for financial statements required for fiscal years 1996 and 1997.

"(f) Not later than March 1 of 1995 and 1996, the head of each executive agency identified in section 901(b) of this title and designated by the Director of the Office of Management and Budget shall prepare and submit to the Director of the Office of Management and Budget an audited financial statement for the preceding fiscal year, covering all accounts and associated activities of each office, bureau, and activity of the agency.

"(g) Not later than March 31 of 1995 and 1996, for executive agencies not designated by the Director of the Office of Management and Budget under subsection (f), the head of each executive agency identified in section 901(b) of this title shall prepare and submit to the Director of the Office of Management and Budget a financial statement for the preceding fiscal year, covering—

- "(1) each revolving fund and trust fund of the agency; and
- "(2) to the extent practicable, the accounts of each office, bureau, and activity of the agency which performed substantial commercial functions during the preceding fiscal year.

"(h) For purposes of subsection (g), the term 'commercial functions' includes buying and leasing of real estate, providing insurance, making loans and loan guarantees, and other credit programs and any activity involving the provision of a service or thing for which a fee, royalty, rent, or other charge is imposed by an agency for services and things of value it provides."

(b) **AUDITS BY AGENCIES.**—Subsection 3521(f) of title 31, United States Code, is amended to read as follows:

"(f)(1) For each audited financial statement required under subsections (a) and (f) of section 3515 of this title, the person who audits the statement for purpose of subsection (e) of this section shall submit a report on the audit to the head of the agency. A report under this subsection shall be prepared in accordance with generally accepted government auditing standards.

"(2) Not later than June 30 following the fiscal year for which a financial statement is submitted under subsection (g) of section 3515 of this title, the person who audits the statement for purpose of subsection (e) of this section shall submit a report on the audit to the head of the agency. A report under this subsection shall be prepared in accordance with generally accepted government auditing standards."

(c) GOVERNMENTWIDE FINANCIAL STATEMENT.—Section 331 of title 31, United States Code, is amended by adding the following new subsection:

"(e)(1) Not later than March 31 of 1998 and each year thereafter, the Secretary of the Treasury, in coordination with the Director of the Office of Management and Budget, shall annually prepare and submit to the President and the Congress an audited financial statement for the preceding fiscal year, covering all accounts and associated activities of the executive branch of the United States Government. The financial statement shall reflect the overall financial position, including assets and liabilities, and results of operations of the executive branch of the United States Government, and shall be prepared in accordance with the form and content requirements set forth by the Director of the Office of Management and Budget.

"(2) The Comptroller General of the United States shall audit the financial statement required by this section."

Mr. BOREN. I ask unanimous consent that the motion to reconsider be offered, and that that motion be laid upon the table.

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

#### UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT OF 1994

Mr. BOREN. Madam President, I ask that the Chair lay before the Senate a message from the House of Representatives on a bill (H.R. 995) to amend title 38, United States Code, to improve reemployment rights and benefits of veterans and other benefits of employment of certain members of the uniformed services, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 995) entitled "An Act to amend title 38, United States Code, to improve reemployment rights and benefits of veterans and other benefits of employment of certain members of the uniformed services, and for other purposes", with the following amendment:

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

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Uniformed Services Employment and Reemployment Rights Act of 1994".

#### SEC. 2. REVISION OF CHAPTER 43 OF TITLE 38.

(a) RESTATEMENT AND IMPROVEMENT OF EMPLOYMENT AND REEMPLOYMENT RIGHTS.—Chapter 43 of title 38, United States Code, is amended to read as follows:

#### "CHAPTER 43—EMPLOYMENT AND REEMPLOYMENT RIGHTS OF MEMBERS OF THE UNIFORMED SERVICES

##### "SUBCHAPTER I—GENERAL

"4301. Purposes; sense of Congress.

"4302. Relation to other law and plans or agreements.

"4303. Definitions.

"4304. Character of service.

##### "SUBCHAPTER II—EMPLOYMENT AND REEMPLOYMENT RIGHTS AND LIMITATIONS; PROHIBITIONS

"4311. Discrimination against persons who serve in the uniformed services and acts of reprisal prohibited.

"4312. Reemployment rights of persons who serve in the uniformed services.

"4313. Reemployment positions.

"4314. Reemployment by the Federal Government.

"4315. Reemployment by certain Federal agencies.

"4316. Rights, benefits, and obligations of persons absent from employment for service in a uniformed service.

"4317. Health plans.

"4318. Employee pension benefit plans.

##### "SUBCHAPTER III—PROCEDURES FOR ASSISTANCE, ENFORCEMENT, AND INVESTIGATION

"4321. Assistance in obtaining reemployment or other employment rights or benefits.

"4322. Enforcement of employment or reemployment rights.

"4323. Enforcement of rights with respect to a State or private employer.

"4324. Enforcement of rights with respect to Federal executive agencies.

"4325. Enforcement of rights with respect to certain Federal agencies.

"4326. Conduct of investigation; subpoenas.

##### "SUBCHAPTER IV—MISCELLANEOUS PROVISIONS

"4331. Regulations.

"4332. Reports.

"4333. Outreach.

##### "SUBCHAPTER I—GENERAL

#### "§4301. Purposes; sense of Congress

"(a) The purposes of this chapter are—

"(1) to encourage noncareer service in the uniformed services by eliminating or minimizing the disadvantages to civilian careers and employment which can result from such service;

"(2) to minimize the disruption to the lives of persons performing service in the uniformed services as well as to their employers, their fellow employees, and their communities, by providing for the prompt reemployment of such persons upon their completion of such service under honorable conditions; and

"(3) to prohibit discrimination against persons because of their service in the uniformed services.

"(b) It is the sense of Congress that the Federal Government should be a model employer in carrying out the provisions of this chapter.

#### "§4302. Relation to other law and plans or agreements

"(a) Nothing in this chapter shall supersede, nullify or diminish any Federal or State law (including any local law or ordinance), contract, agreement, policy, plan, practice, or other matter that establishes a right or benefit that is more beneficial to, or is in addition to, a right or benefit provided for such person in this chapter.

"(b) This chapter supersedes any State law (including any local law or ordinance), contract, agreement, policy, plan, practice, or other matter that reduces, limits, or eliminates in any manner any right or benefit provided by this chapter, including the establishment of additional prerequisites to the exercise of any such right or the receipt of any such benefit.

#### "§4303. Definitions

"For the purposes of this chapter—

"(1) The term 'Attorney General' means the Attorney General of the United States or any person designated by the Attorney General to carry out a responsibility of the Attorney General under this chapter.

"(2) The term 'benefit', 'benefit of employment', or 'rights and benefits' means any advantage, profit, privilege, gain, status, account, or interest (other than wages or salary for work performed) that accrues by reason of an employment contract or agreement or an employer policy, plan, or practice and includes rights and benefits under a pension plan, a health plan, an employee stock ownership plan, insurance coverage and awards, bonuses, severance pay, supplemental unemployment benefits, vacations, and the opportunity to select work hours or location of employment.

"(3) The term 'employee' means any person employed by an employer.

"(4)(A) Except as provided in subparagraphs (B) and (C), the term 'employer' means any person, institution, organization, or other entity that pays salary or wages for work performed or that has control over employment opportunities, including—

"(i) a person, institution, organization, or other entity to whom the employer has delegated the performance of employment-related responsibilities;

"(ii) the Federal Government;

"(iii) a State;

"(iv) any successor in interest to a person, institution, organization, or other entity referred to in this subparagraph; and

"(v) a person, institution, organization, or other entity that has denied initial employment in violation of section 4311.

"(B) In the case of a National Guard technician employed under section 709 of title 32, the term 'employer' means the adjutant general of the State in which the technician is employed.

"(C) Except as an actual employer of employees, an employee pension benefit plan described in section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2)) shall be deemed to be an employer only with respect to the obligation to provide benefits described in section 4318.

"(5) The term 'Federal executive agency' includes the United States Postal Service, the Postal Rate Commission, any nonappropriated fund instrumentality of the United States, any Executive agency (as that term is defined in section 105 of title 5) other than an agency referred to in section 2302(a)(2)(C)(ii) of title 5, and any military department (as that term is defined in section 102 of title 5) with respect to the civilian employees of that department.

"(6) The term 'Federal Government' includes any Federal executive agency, the legislative branch of the United States, and the judicial branch of the United States.

"(7) The term 'health plan' means an insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or other arrangement under which health services for individuals are provided or the expenses of such services are paid.

"(8) The term 'notice' means (with respect to subchapter II) any written or verbal notification of an obligation or intention to perform service in the uniformed services provided to an employer by the employee who will perform such

service or by the uniformed service in which such service is to be performed.

"(9) The term 'qualified', with respect to an employment position, means having the ability to perform the essential tasks of the position.

"(10) The term 'reasonable efforts', in the case of actions required of an employer under this chapter, means actions, including training provided by an employer, that do not place an undue hardship on the employer.

"(11) Notwithstanding section 101, the term 'Secretary' means the Secretary of Labor or any person designated by such Secretary to carry out an activity under this chapter.

"(12) The term 'seniority' means longevity in employment together with any benefits of employment which accrue with, or are determined by, longevity in employment.

"(13) The term 'service in the uniformed services' means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, and a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty.

"(14) The term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and other territories of the United States (including the agencies and political subdivisions thereof).

"(15) The term 'undue hardship', in the case of actions taken by an employer, means actions requiring significant difficulty or expense, when considered in light of—

"(A) the nature and cost of the action needed under this chapter;

"(B) the overall financial resources of the facility or facilities involved in the provision of the action; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such action upon the operation of the facility;

"(C) the overall financial resources of the employer; the overall size of the business of an employer with respect to the number of its employees; the number, type, and location of its facilities; and

"(D) the type of operation or operations of the employer, including the composition, structure, and functions of the work force of such employer; the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the employer.

"(16) The term 'uniformed services' means the Armed Forces, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or emergency.

#### "§ 4304. Character of service

"A person's entitlement to the benefits of this chapter by reason of the service of such person in one of the uniformed services terminates upon the occurrence of any of the following events:

"(1) A separation of such person from such uniformed service with a dishonorable or bad conduct discharge.

"(2) A separation of such person from such uniformed service under other than honorable conditions, as characterized pursuant to regulations prescribed by the Secretary concerned.

"(3) A dismissal of such person permitted under section 1161(a) of title 10.

"(4) A dropping of such person from the rolls pursuant to section 1161(b) of title 10.

#### "SUBCHAPTER II—EMPLOYMENT AND REEMPLOYMENT RIGHTS AND LIMITATIONS; PROHIBITIONS

##### "§ 4311. Discrimination against persons who serve in the uniformed services and acts of reprisal prohibited

"(a) A person who is a member of, applies to be a member of, performs, has performed, applies to perform, or has an obligation to perform service in a uniformed service shall not be denied initial employment, reemployment, retention in employment, promotion, or any benefit of employment by an employer on the basis of that membership, application for membership, performance of service, application for service, or obligation.

"(b) An employer shall be considered to have denied a person initial employment, reemployment, retention in employment, promotion, or a benefit of employment in violation of this section if the person's membership, application for membership, service, application for service, or obligation for service in the uniformed services is a motivating factor in the employer's action, unless the employer can prove that the action would have been taken in the absence of such membership, application for membership, performance of service, application for service, or obligation.

"(c)(1) An employer may not discriminate in employment against or take any adverse employment action against any person because such person has taken an action to enforce a protection afforded any person under this chapter, has testified or otherwise made a statement in or in connection with any proceeding under this chapter, has assisted or otherwise participated in an investigation under this chapter, or has exercised a right provided for in this chapter.

"(2) The prohibition in paragraph (1) shall apply with respect to a person regardless of whether that person has performed service in the uniformed services and shall apply to any position of employment, including a position that is described in section 4312(d)(1)(C).

##### "§ 4312. Reemployment rights of persons who serve in the uniformed services

"(a) Subject to subsections (b), (c), and (d) and to section 4304, any person who is absent from a position of employment by reason of service in the uniformed services shall be entitled to the reemployment rights and benefits and other employment benefits of this chapter if—

"(1) the person (or an appropriate officer of the uniformed service in which such service is performed) has given advance written or verbal notice of such service to such person's employer;

"(2) the cumulative length of the absence and of all previous absences from a position of employment with that employer by reason of service in the uniformed services does not exceed five years; and

"(3) except as provided in subsection (f), the person reports to, or submits an application for reemployment to, such employer in accordance with the provisions of subsection (e).

"(b) No notice is required under subsection (a)(1) if the giving of such notice is precluded by military necessity or, under all of the relevant circumstances, the giving of such notice is otherwise impossible or unreasonable. A determination of military necessity for the purposes of this subsection shall be made pursuant to regulations prescribed by the Secretary of Defense and shall not be subject to judicial review.

"(c) Subsection (a) shall apply to a person who is absent from a position of employment by reason of service in the uniformed services if such person's cumulative period of service in the uniformed services, with respect to the employer relationship for which a person seeks reemployment, does not exceed five years, except that

any such period of service shall not include any service—

"(1) that is required, beyond five years, to complete an initial period of obligated service;

"(2) during which such person was unable to obtain orders releasing such person from a period of service in the uniformed services before the expiration of such five-year period and such inability was through no fault of such person;

"(3) performed as required pursuant to section 270 of title 10, under section 502(a) or 503 of title 32, or to fulfill additional training requirements determined and certified in writing by the Secretary concerned, to be necessary for professional development, or for completion of skill training or retraining; or

"(4) performed by a member of a uniformed service who is—

"(A) ordered to or retained on active duty under section 672(a), 672(g), 673, 673b, 673c, or 688 of title 10 or under section 331, 332, 359, 360, 367, or 712 of title 14;

"(B) ordered to or retained on active duty (other than for training) under any provision of law during a war or during a national emergency declared by the President or the Congress;

"(C) ordered to active duty (other than for training) in support, as determined by the Secretary concerned, of an operational mission for which personnel have been ordered to active duty under section 673b of title 10;

"(D) ordered to active duty in support, as determined by the Secretary concerned, of a critical mission or requirement of the uniformed services; or

"(E) called into Federal service as a member of the National Guard under chapter 15 of title 10 or under section 3500 or 8500 of title 10.

"(d)(1) An employer is not required to reemploy a person under this chapter if—

"(A) the employer's circumstances have so changed as to make such reemployment impossible or unreasonable;

"(B) in the case of a person entitled to reemployment under subsection (a)(3), (a)(4), or (b)(2)(B) of section 4313, such employment would impose an undue hardship on the employer; or

"(C) the employment from which the person leaves to serve in the uniformed services is for a brief, nonrecurrent period and there is no reasonable expectation that such employment will continue indefinitely or for a significant period.

"(2) In any proceeding involving an issue of whether—

"(A) any reemployment referred to in paragraph (1) is impossible or unreasonable because of a change in an employer's circumstances,

"(B) any accommodation, training, or effort referred to in subsection (a)(3), (a)(4), or (b)(2)(B) of section 4313 would impose an undue hardship on the employer, or

"(C) the employment referred to in paragraph (1)(C) is brief or for a nonrecurrent period and without a reasonable expectation that such employment will continue indefinitely or for a significant period,

the employer shall have the burden of proving the impossibility or unreasonableness, undue hardship, or the brief or nonrecurrent nature of the employment without a reasonable expectation of continuing indefinitely or for a significant period.

"(e)(1) Subject to paragraph (2), a person referred to in subsection (a) shall, upon the completion of a period of service in the uniformed services, notify the employer referred to in such subsection of the person's intent to return to a position of employment with such employer as follows:

"(A) In the case of a person whose period of service in the uniformed services was less than 31 days, by reporting to the employer—

"(i) not later than the beginning of the first full regularly scheduled work period on the first

full calendar day following the completion of the period of service and the expiration of eight hours after a period allowing for the safe transportation of the person from the place of that service to the person's residence; or

"(ii) as soon as possible after the expiration of the eight-hour period referred to in clause (i), if reporting within the period referred to in such clause is impossible or unreasonable through no fault of the person.

"(B) In the case of a person who is absent from a position of employment for a period of any length for the purposes of an examination to determine the person's fitness to perform service in the uniformed services, by reporting in the manner and time referred to in subparagraph (A).

"(C) In the case of a person whose period of service in the uniformed services was for more than 30 days but less than 181 days, by submitting an application for reemployment with the employer not later than 14 days after the completion of the period of service or if submitting such application within such period is impossible or unreasonable through no fault of the person, the next first full calendar day when submission of such application becomes possible.

"(D) In the case of a person whose period of service in the uniformed services was for more than 180 days, by submitting an application for reemployment with the employer not later than 90 days after the completion of the period of service.

"(2)(A) A person who is hospitalized for, or convalescing from, an illness or injury incurred in, or aggravated during, the performance of service in the uniformed services shall, at the end of the period that is necessary for the person to recover from such illness or injury, report to the person's employer (in the case of a person described in subparagraph (A) or (B) of paragraph (1)) or submit an application for reemployment with such employer (in the case of a person described in subparagraph (C) or (D) of such paragraph). Except as provided in subparagraph (B), such period of recovery may not exceed two years.

"(B) Such two-year period shall be extended by the minimum time required to accommodate the circumstances beyond such person's control which make reporting within the period specified in subparagraph (A) impossible or unreasonable.

"(3) A person who fails to report or apply for employment or reemployment within the appropriate period specified in this subsection shall not automatically forfeit such person's entitlement to the rights and benefits referred to in subsection (a) but shall be subject to the conduct rules, established policy, and general practices of the employer pertaining to explanations and discipline with respect to absence from scheduled work.

"(f)(1) A person who submits an application for reemployment in accordance with subparagraph (C) or (D) of subsection (e)(1) or subsection (e)(2) shall provide to the person's employer (upon the request of such employer) documentation to establish that—

"(A) the person's application is timely;

"(B) the person has not exceeded the service limitations set forth in subsection (a)(2) (except as permitted under subsection (c)); and

"(C) the person's entitlement to the benefits under this chapter has not been terminated pursuant to section 4304.

"(2) Documentation of any matter referred to in paragraph (1) that satisfies regulations prescribed by the Secretary shall satisfy the documentation requirements in such paragraph.

"(3)(A) Except as provided in subparagraph (B), the failure of a person to provide documentation that satisfies regulations prescribed pursuant to paragraph (2) shall not be a basis

for denying reemployment in accordance with the provisions of this chapter if the failure occurs because such documentation does not exist or is not readily available at the time of the request of the employer. If, after such reemployment, documentation becomes available that establishes that such person does not meet one or more of the requirements referred to in subparagraphs (A), (B), and (C) of paragraph (1), the employer of such person may terminate the employment of the person and the provision of any rights or benefits afforded the person under this chapter.

"(B) An employer who reemploys a person absent from a position of employment for more than 90 days may require that the person provide the employer with the documentation referred to in subparagraph (A) before beginning to treat the person as not having incurred a break in service for pension purposes under section 4318(a)(2)(A).

"(4) An employer may not delay or attempt to defeat a reemployment obligation by demanding documentation that does not then exist or is not then readily available.

"(g) The right of a person to reemployment under this section shall not entitle such person to retention, preference, or displacement rights over any person with a superior claim under the provisions of title 5, United States Code, relating to veterans and other preference eligibles.

"(h) In any determination of a person's entitlement to protection under this chapter, the timing, frequency, and duration of the person's training or service, or the nature of such training or service (including voluntary service) in the uniformed services, shall not be a basis for denying protection of this chapter if the service does not exceed the limitations set forth in subsection (c) and the notice requirements established in subsection (a)(1) and the notification requirements established in subsection (e) are met.

#### "§4313. Reemployment positions

"(a) Subject to subsection (b) (in the case of any employee) and sections 4314 and 4315 (in the case of an employee of the Federal Government), a person entitled to reemployment under section 4312, upon completion of a period of service in the uniformed services, shall be promptly reemployed in a position of employment in accordance with the following order of priority:

"(1) Except as provided in paragraphs (3) and (4), in the case of a person whose period of service in the uniformed services was for less than 91 days—

"(A) in the position of employment in which the person would have been employed if the continuous employment of such person with the employer had not been interrupted by such service, the duties of which the person is qualified to perform; or

"(B) in the position of employment in which the person was employed on the date of the commencement of the service in the uniformed services, only if the person is not qualified to perform the duties of the position referred to in subparagraph (A) after reasonable efforts by the employer to qualify the person.

"(2) Except as provided in paragraphs (3) and (4), in the case of a person whose period of service in the uniformed services was for more than 90 days—

"(A) in the position of employment in which the person would have been employed if the continuous employment of such person with the employer had not been interrupted by such service, or a position of like seniority, status and pay, the duties of which the person is qualified to perform; or

"(B) in the position of employment in which the person was employed on the date of the commencement of the service in the uniformed services, or a position of like seniority, status and

pay, the duties of which the person is qualified to perform, only if the person is not qualified to perform the duties of a position referred to in subparagraph (A) after reasonable efforts by the employer to qualify the person.

"(3) In the case of a person who has a disability incurred in, or aggravated during, such service, and who (after reasonable efforts by the employer to accommodate the disability) is not qualified due to such disability to be employed in the position of employment in which the person would have been employed if the continuous employment of such person with the employer had not been interrupted by such service—

"(A) in any other position which is equivalent in seniority, status, and pay, the duties of which the person is qualified to perform or would become qualified to perform with reasonable efforts by the employer; or

"(B) if not employed under subparagraph (A), in a position which is the nearest approximation to a position referred to in subparagraph (A) in terms of seniority, status, and pay consistent with circumstances of such person's case.

"(4) In the case of a person who (A) is not qualified to be employed in (i) the position of employment in which the person would have been employed if the continuous employment of such person with the employer had not been interrupted by such service, or (ii) in the position of employment in which such person was employed on the date of the commencement of the service in the uniform services for any reason (other than disability incurred in, or aggravated during, service in the uniformed services), and (B) cannot become qualified with reasonable efforts by the employer, in any other position of lesser status and pay which such person is qualified to perform, with full seniority.

"(b)(1) If two or more persons are entitled to reemployment under section 4312 in the same position of employment and more than one of them has reported for such reemployment, the person who left the position first shall have the prior right to reemployment in that position.

"(2) Any person entitled to reemployment under section 4312 who is not reemployed in a position of employment by reason of paragraph (1) shall be entitled to be reemployed as follows:

"(A) Except as provided in subparagraph (B), in any other position of employment referred to in subsection (a)(1) or (a)(2), as the case may be (in the order of priority set out in the applicable subsection), that provides a similar status and pay to a position of employment referred to in paragraph (1) of this subsection, consistent with the circumstances of such person's case, with full seniority.

"(B) In the case of a person who has a disability incurred in, or aggravated during, a period of service in the uniformed services that requires reasonable efforts by the employer for the person to be able to perform the duties of the position of employment, in any other position referred to in subsection (a)(3) (in the order of priority set out in that subsection) that provides a similar status and pay to a position referred to in paragraph (1) of this subsection, consistent with circumstances of such person's case, with full seniority.

#### "§4314. Reemployment by the Federal Government

"(a) Except as provided in subsections (b), (c), and (d), if a person is entitled to reemployment by the Federal Government under section 4312, such person shall be reemployed in a position of employment as described in section 4313.

"(b)(1) If the Director of the Office of Personnel Management makes a determination described in paragraph (2) with respect to a person who was employed by a Federal executive agency at the time the person entered the service from which the person seeks reemployment under this section, the Director shall—

"(A) identify a position of like seniority, status, and pay at another Federal executive agency that satisfies the requirements of section 4313 and for which the person is qualified; and

"(B) ensure that the person is offered such position.

"(2) The Director shall carry out the duties referred to in subparagraphs (A) and (B) of paragraph (1) if the Director determines that—

"(A) the Federal executive agency that employed the person referred to in such paragraph no longer exists and the functions of such agency have not been transferred to another Federal executive agency; or

"(B) it is impossible or unreasonable for the agency to reemploy the person.

"(c) If the employer of a person described in subsection (a) was, at the time such person entered the service from which such person seeks reemployment under this section, a part of the judicial branch or the legislative branch of the Federal Government, and such employer determines that it is impossible or unreasonable for such employer to reemploy such person, such person shall, upon application to the Director of the Office of Personnel Management, be ensured an offer of employment in an alternative position in a Federal executive agency on the basis described in subsection (b).

"(d) If the adjutant general of a State determines that it is impossible or unreasonable to reemploy a person who was a National Guard technician employed under section 709 of title 32, such person shall, upon application to the Director of the Office of Personnel Management, be ensured an offer of employment in an alternative position in a Federal executive agency on the basis described in subsection (b).

**"§ 4315. Reemployment by certain Federal agencies**

"(a) The head of each agency referred to in section 2302(a)(2)(C)(ii) of title 5 shall prescribe procedures for ensuring that the rights under this chapter apply to the employees of such agency.

"(b) In prescribing procedures under subsection (a), the head of an agency referred to in that subsection shall ensure, to the maximum extent practicable, that the procedures of the agency for reemploying persons who serve in the uniformed services provide for the reemployment of such persons in the agency in a manner similar to the manner of reemployment described in section 4313.

"(c)(1) The procedures prescribed under subsection (a) shall designate an official at the agency who shall determine whether or not the reemployment of a person referred to in subsection (b) by the agency is impossible or unreasonable.

"(2) Upon making a determination that the reemployment by the agency of a person referred to in subsection (b) is impossible or unreasonable, the official referred to in paragraph (1) shall notify the person and the Director of the Office of Personnel Management of such determination.

"(3) A determination pursuant to this subsection shall not be subject to judicial review.

"(4) The head of each agency referred to in subsection (a) shall submit to the Select Committee on Intelligence and the Committee on Veterans' Affairs of the Senate and the Permanent Select Committee on Intelligence and the Committee on Veterans' Affairs of the House of Representatives on an annual basis a report on the number of persons whose reemployment with the agency was determined under this subsection to be impossible or unreasonable during the year preceding the report, including the reason for each such determination.

"(d)(1) Except as provided in this section, nothing in this section, section 4313, or section 4325 shall be construed to exempt any agency re-

ferred to in subsection (a) from compliance with any other substantive provision of this chapter.

"(2) This section may not be construed—

"(A) as prohibiting an employee of an agency referred to in subsection (a) from seeking information from the Secretary regarding assistance in seeking reemployment from the agency under this chapter, alternative employment in the Federal Government under this chapter, or information relating to the rights and obligations of employee and Federal agencies under this chapter; or

"(B) as prohibiting such an agency from voluntarily cooperating with or seeking assistance in or of clarification from the Secretary or the Director of the Office of Personnel Management of any matter arising under this chapter.

"(e) The Director of the Office of Personnel Management shall ensure the offer of employment to a person in a position in a Federal executive agency on the basis described in subsection (b) if—

"(1) the person was an employee of an agency referred to in section 2302(a)(2)(C)(ii) of title 5 at the time the person entered the service from which the person seeks reemployment under this section;

"(2) the appropriate officer of the agency determines under subsection (c) that reemployment of the person by the agency is impossible or unreasonable; and

"(3) the person submits an application to the Director for an offer of employment under this subsection.

**"§ 4316. Rights, benefits, and obligations of persons absent from employment for service in a uniformed service**

"(a) A person who is reemployed under this chapter is entitled to the seniority and other rights and benefits determined by seniority that the person had on the date of the commencement of service in the uniformed services plus the additional seniority and rights and benefits that such person would have attained if the person had remained continuously employed.

"(b)(1) Subject to paragraphs (2) through (6), a person who is absent from a position of employment by reason of service in the uniformed services shall be—

"(A) deemed to be on furlough or leave of absence while performing such service; and

"(B) entitled to such other rights and benefits not determined by seniority as are generally provided by the employer of the person to employees having similar seniority, status, and pay who are on furlough or leave of absence under a contract, agreement, policy, practice, or plan in effect at the commencement of such service or established while such person performs such service.

"(2)(A) Subject to subparagraph (B), a person who—

"(i) is absent from a position of employment by reason of service in the uniformed services, and

"(ii) knowingly provides written notice of intent not to return to a position of employment after service in the uniformed service, is not entitled to rights and benefits under paragraph (1)(B).

"(B) For the purposes of subparagraph (A), the employer shall have the burden of proving that a person knowingly provided clear written notice of intent not to return to a position of employment after service in the uniformed service and, in doing so, was aware of the specific rights and benefits to be lost under subparagraph (A).

"(3) A person deemed to be on furlough or leave of absence under this subsection while serving in the uniformed services shall not be entitled under this subsection to any benefits to which the person would not otherwise be entitled if the person had remained continuously employed.

"(4) Such person may be required to pay the employee cost, if any, of any funded benefit continued pursuant to paragraph (1) to the extent other employees on furlough or leave of absence are so required.

"(5) The entitlement of a person to coverage under a health plan is provided for under section 4317.

"(6) The entitlement of a person to a right or benefit under an employee pension benefit plan is provided for under section 4318.

"(c) A person who is reemployed by an employer under this chapter shall not be discharged from such employment, except for cause—

"(1) within one year after the date of such reemployment, if the person's period of service before the reemployment was more than 180 days; or

"(2) within 180 days after the date of such reemployment, if the person's period of service before the reemployment was more than 30 days but less than 181 days.

"(d) Any person whose employment with an employer is interrupted by a period of service in the uniformed services shall be permitted, upon request of that person, to use during such period of service any vacation, annual, or similar leave with pay accrued by the person before the commencement of such service.

**"§ 4317. Health plans**

"(a)(1)(A) Subject to paragraphs (2) and (3), in any case in which a person (or the person's dependents) has coverage under a health plan in connection with the person's position of employment, including a group health plan (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974), and such person is absent from such position of employment by reason of service in the uniformed services, the plan shall provide that the person may elect to continue such coverage as provided in this subsection. The maximum period of coverage of a person and the person's dependents under such an election shall be the lesser of—

"(i) the 18-month period beginning on the date on which the person's absence begins; or

"(ii) the day after the date on which the person fails to apply for or return to a position of employment, as determined under section 4312(e).

"(B) A person who elects to continue health-plan coverage under this paragraph may be required to pay not more than 102 percent of the full premium under the plan (determined in the same manner as the applicable premium under section 4980B(f)(4) of the Internal Revenue Code of 1986) associated with such coverage for the employer's other employees, except that in the case of a person who performs service in the uniformed services for less than 31 days, such person may not be required to pay more than the employee share, if any, for such coverage.

"(C) In the case of a health plan that is a multiemployer plan, as defined in section 3(37) of the Employee Retirement Income Security Act of 1974, any liability under the plan for employer contributions and benefits arising under this paragraph shall be allocated—

"(i) by the plan in such manner as the plan sponsor shall provide; or

"(ii) if the sponsor does not provide—

"(I) to the last employer employing the person before the period served by the person in the uniformed services, or

"(II) if such last employer is no longer functional, to the plan.

"(b)(1) Except as provided in paragraph (2), in the case of a person whose coverage under a health plan was terminated by reason of service in the uniformed services, an exclusion or waiting period may not be imposed in connection with the reinstatement of such coverage upon reemployment under this chapter if an exclusion

or waiting period would not have been imposed under health plan had coverage of such person by such plan not been terminated as a result of such service. This paragraph applies to the person who is reemployed and to any individual who is covered by such plan by reason of the reinstatement of the coverage of such person.

"(2) Paragraph (1) shall not apply to the coverage of any illness or injury determined by the Secretary of Veterans Affairs to have been incurred in, or aggravated during, performance of service in the uniformed services.

#### "§4318. Employee pension benefit plans

"(a)(1)(A) Except as provided in subparagraph (B), in the case of a right provided pursuant to an employee pension benefit plan (including those described in sections 3(2) and 3(33) of the Employee Retirement Income Security Act of 1974) or a right provided under any Federal or State law governing pension benefits for governmental employees, the right to pension benefits of a person reemployed under this chapter shall be determined under this section.

"(B) In the case of benefits under the Thrift Savings Plan, the rights of a person reemployed under this chapter shall be those rights provided in section 8432b of title 5. The first sentence of this subparagraph shall not be construed to affect any other right or benefit under this chapter.

"(2)(A) A person reemployed under this chapter shall be treated as not having incurred a break in service with the employer or employers maintaining the plan by reason of such person's period or periods of service in the uniformed services.

"(B) Each period served by a person in the uniformed services shall, upon reemployment under this chapter, be deemed to constitute service with the employer or employers maintaining the plan for the purpose of determining the non-forfeiture of the person's accrued benefits and for the purpose of determining the accrual of benefits under the plan.

"(b)(1) An employer reemploying a person under this chapter shall, with respect to a period of service described in subsection (a)(2)(B), be liable to an employee pension benefit plan for funding any obligation of the plan to provide the benefits described in subsection (a)(2) and shall allocate the amount of any employer contribution for the person in the same manner and to the same extent the allocation occurs for other employees during the period of service. For purposes of determining the amount of such liability and any obligation of the plan, earnings and forfeitures shall not be included. For purposes of determining the amount of such liability and for purposes of section 515 of the Employee Retirement Income Security Act of 1974 or any similar Federal or State law governing pension benefits for governmental employees, service in the uniformed services that is deemed under subsection (a) to be service with the employer shall be deemed to be service with the employer under the terms of the plan or any applicable collective bargaining agreement. In the case of a multiemployer plan, as defined in section 3(37) of the Employee Retirement Income Security Act of 1974, any liability of the plan described in this paragraph shall be allocated—

"(A) by the plan in such manner as the sponsor maintaining the plan shall provide; or

"(B) if the sponsor does not provide—

"(i) to the last employer employing the person before the period served by the person in the uniformed services, or

"(ii) if such last employer is no longer functional, to the plan.

"(2) A person reemployed under this chapter shall be entitled to accrued benefits pursuant to subsection (a) that are contingent on the making of, or derived from, employee contributions or elective deferrals (as defined in section

402(g)(3) of the Internal Revenue Code of 1986) only to the extent the person makes payment to the plan with respect to such contributions or deferrals. No such payment may exceed the amount the person would have been permitted or required to contribute had the person remained continuously employed by the employer throughout the period of service described in subsection (a)(2)(B). Any payment to the plan described in this paragraph shall be made during the period beginning with the date of reemployment and whose duration is three times the period of the person's service in the uniformed services, not to exceed five years.

"(3) For purposes of computing an employer's liability under paragraph (1) or the employee's contributions under paragraph (2), the employee's compensation during the period of service described in subsection (a)(2)(B) shall be computed—

"(A) at the rate the employee would have received but for the period of service described in subsection (a)(2)(B), or

"(B) in the case that the determination of such rate is not reasonably certain, on the basis of the employee's average rate of compensation during the 12-month period immediately preceding such period (or, if shorter, the period of employment immediately preceding such period).

"(c) Any employer who reemploys a person under this chapter and who is an employer contributing to a multiemployer plan, as defined in section 3(37) of the Employee Retirement Income Security Act of 1974, under which benefits are or may be payable to such person by reason of the obligations set forth in this chapter, shall, within 30 days after the date of such reemployment, provide information, in writing, of such reemployment to the administrator of such plan.

#### "SUBCHAPTER III—PROCEDURES FOR ASSISTANCE, ENFORCEMENT, AND INVESTIGATION

##### "§4321. Assistance in obtaining reemployment or other employment rights or benefits

"The Secretary (through the Veterans' Employment and Training Service) shall provide assistance to any person with respect to the employment and reemployment rights and benefits to which such person is entitled under this chapter. In providing such assistance, the Secretary may request the assistance of existing Federal and State agencies engaged in similar or related activities and utilize the assistance of volunteers.

##### "§4322. Enforcement of employment or reemployment rights

"(a) A person who claims that—

"(1) such person is entitled under this chapter to employment or reemployment rights or benefits with respect to employment by an employer; and

"(2)(A) such employer has failed or refused, or is about to fail or refuse, to comply with the provisions of this chapter; or

"(B) in the case that the employer is a Federal executive agency, such employer or the Office of Personnel Management has failed or refused, or is about to fail or refuse, to comply with the provisions of this chapter,

may file a complaint with the Secretary in accordance with subsection (b), and the Secretary shall investigate such complaint.

"(b) Such complaint shall be in writing, be in such form as the Secretary may prescribe, include the name and address of the employer against whom the complaint is filed, and contain a summary of the allegations that form the basis for the complaint.

"(c) The Secretary shall, upon request, provide technical assistance to a potential claimant with respect to a complaint under this subsection, and when appropriate, to such claimant's employer.

"(d) The Secretary shall investigate each complaint submitted pursuant to subsection (a). If the Secretary determines as a result of the investigation that the action alleged in such complaint occurred, the Secretary shall resolve the complaint by making reasonable efforts to ensure that the person or entity named in the complaint complies with the provisions of this chapter.

"(e) If the efforts of the Secretary with respect to a complaint under subsection (d) are unsuccessful, the Secretary shall notify the person who submitted the complaint of—

"(1) the results of the Secretary's investigation; and

"(2) the complainant's entitlement to proceed under the enforcement of rights provisions provided under section 4323 (in the case of a person submitting a complaint against a State or private employer) or section 4324 (in the case of a person submitting a complaint against a Federal executive agency).

"(f) This subchapter does not apply to any action relating to benefits to be provided under the Thrift Savings Plan under title 5.

##### "§4323. Enforcement of rights with respect to a State or private employer

"(a)(1) A person who receives from the Secretary a notification pursuant to section 4322(e) of an unsuccessful effort to resolve a complaint relating to a State (as an employer) or a private employer may request that the Secretary refer the complaint to the Attorney General. If the Attorney General is reasonably satisfied that the person on whose behalf the complaint is referred is entitled to the rights or benefits sought, the Attorney General may appear on behalf of, and act as attorney for, the person on whose behalf the complaint is submitted and commence an action for appropriate relief for such person in an appropriate United States district court.

"(2) A person may commence an action for relief with respect to a complaint if that person—

"(A) has chosen not to apply to the Secretary for assistance regarding the complaint under section 4322(c);

"(B) has chosen not to request that the Secretary refer the complaint to the Attorney General under paragraph (1); or

"(C) has been refused representation by the Attorney General with respect to the complaint under such paragraph.

"(b) In the case of an action against a State as an employer, the appropriate district court is the court for any district in which the State exercises any authority or carries out any function. In the case of a private employer the appropriate district court is the district court for any district in which the private employer of the person maintains a place of business.

"(c)(1)(A) The district courts of the United States shall have jurisdiction, upon the filing of a complaint, motion, petition, or other appropriate pleading by or on behalf of the person claiming a right or benefit under this chapter—

"(i) to require the employer to comply with the provisions of this chapter;

"(ii) to require the employer to compensate the person for any loss of wages or benefits suffered by reason of such employer's failure to comply with the provisions of this chapter; and

"(iii) to require the employer to pay the person an amount equal to the amount referred to in clause (ii) as liquidated damages, if the court determines that the employer's failure to comply with the provisions of this chapter was willful.

"(B) Any compensation under clauses (ii) and (iii) of subparagraph (A) shall be in addition to, and shall not diminish, any of the other rights and benefits provided for in this chapter.

"(2)(A) No fees or court costs shall be charged or taxed against any person claiming rights under this chapter.

"(B) In any action or proceeding to enforce a provision of this chapter by a person under subsection (a)(2) who obtained private counsel for

such action or proceeding, the court may award any such person who prevails in such action or proceeding reasonable attorney fees, expert witness fees, and other litigation expenses.

"(3) The court may use its full equity powers, including temporary or permanent injunctions, temporary restraining orders, and contempt orders, to vindicate fully the rights or benefits of persons under this chapter.

"(4) An action under this chapter may be initiated only by a person claiming rights or benefits under this chapter, not by an employer, prospective employer, or other entity with obligations under this chapter.

"(5) In any such action, only an employer or a potential employer, as the case may be, shall be a necessary party respondent.

"(6) No State statute of limitations shall apply to any proceeding under this chapter.

"(7) A State shall be subject to the same remedies, including prejudgment interest, as may be imposed upon any private employer under this section.

#### "§4324. Enforcement of rights with respect to Federal executive agencies

"(a)(1) A person who receives from the Secretary a notification pursuant to section 4322(e) of an unsuccessful effort to resolve a complaint relating to a Federal executive agency may request that the Secretary refer the complaint for litigation before the Merit Systems Protection Board. The Secretary shall refer the complaint to the Office of Special Counsel established by section 1211 of title 5.

"(2)(A) If the Special Counsel is reasonably satisfied that the person on whose behalf a complaint is referred under paragraph (1) is entitled to the rights or benefits sought, the Special Counsel (upon the request of the person submitting the complaint) may appear on behalf of, and act as attorney for, the person and initiate an action regarding such complaint before the Merit Systems Protection Board.

"(B) If the Special Counsel declines to initiate an action and represent a person before the Merit Systems Protection Board under subparagraph (A), the Special Counsel shall notify such person of that decision.

"(b) A person may submit a complaint against a Federal executive agency under this subchapter directly to the Merit Systems Protection Board if that person—

"(1) has chosen not to apply to the Secretary for assistance regarding a complaint under section 4322(c);

"(2) has received a notification from the Secretary under section 4322(e);

"(3) has chosen not to be represented before the Board by the Special Counsel pursuant to subsection (a)(2)(A); or

"(4) has received a notification of a decision from the Special Counsel under subsection (a)(2)(B).

"(c)(1) The Merit Systems Protection Board shall adjudicate any complaint brought before the Board pursuant to subsection (a)(2)(A) or (b). A person who seeks a hearing or adjudication by submitting such a complaint under this paragraph may be represented at such hearing or adjudication in accordance with the rules of the Board.

"(2) If the Board determines that a Federal executive agency has not complied with the provisions of this chapter relating to the employment or reemployment of a person by the agency, the Board shall enter an order requiring the agency or employee to comply with such provisions and to compensate such person for any loss of wages or benefits suffered by such person by reason of such lack of compliance.

"(3) Any compensation received by a person pursuant to an order under paragraph (2) shall be in addition to any other right or benefit provided for by this chapter and shall not diminish any such right or benefit.

"(4) If the Board determines as a result of a hearing or adjudication conducted pursuant to a complaint submitted by a person directly to the Board pursuant to subsection (b) that such person is entitled to an order referred to in paragraph (2), the Board may, in its discretion, award such person reasonable attorney fees, expert witness fees, and other litigation expenses.

"(d)(1) A person adversely affected or aggrieved by a final order or decision of the Merit Systems Protection Board under subsection (c) may petition the United States Court of Appeals for the Federal Circuit to review the final order or decision. Such petition and review shall be in accordance with the procedures set forth in section 7703 of title 5.

"(2) Such person may be represented in the Federal Circuit proceeding by the Special Counsel unless the person was not represented by the Special Counsel before the Merit Systems Protection Board regarding such order or decision.

#### "§4325. Enforcement of rights with respect to certain Federal agencies

"(a) This section applies to any person who alleges that—

"(1) the reemployment of such person by an agency referred to in subsection (a) of section 4315 was not in accordance with procedures for the reemployment of such person under subsection (b) of such section; or

"(2) the failure of such agency to reemploy the person under such section was otherwise wrongful.

"(b) Any person referred to in subsection (a) may submit a claim relating to an allegation referred to in that subsection to the inspector general of the agency which is the subject of the allegation. The inspector general shall investigate and resolve the allegation pursuant to procedures prescribed by the head of the agency.

"(c) In prescribing procedures for the investigation and resolution of allegations under subsection (b), the head of an agency shall ensure, to the maximum extent practicable, that the procedures are similar to the procedures for investigating and resolving complaints utilized by the Secretary under section 4322(d).

"(d) This section may not be construed—

"(1) as prohibiting an employee of an agency referred to in subsection (a) from seeking information from the Secretary regarding assistance in seeking reemployment from the agency under this chapter, alternative employment in the Federal Government under this chapter, or information relating to the rights and obligations of employee and Federal agencies under this chapter; or

"(2) as prohibiting such an agency from voluntarily cooperating with or seeking assistance in or of clarification from the Secretary or the Director of the Office of Personnel Management of any matter arising under this chapter.

#### "§4326. Conduct of investigation; subpoenas

"(a) In carrying out any investigation under this chapter, the Secretary's duly authorized representatives shall, at all reasonable times, have reasonable access to, for purposes of examination, and the right to copy and receive, any documents of any person or employer that the Secretary considers relevant to the investigation.

"(b) In carrying out any investigation under this chapter, the Secretary may require by subpoena the attendance and testimony of witnesses and the production of documents relating to any matter under investigation. In case of disobedience of the subpoena or contumacy and on request of the Secretary, the Attorney General may apply to any district court of the United States in whose jurisdiction such disobedience or contumacy occurs for an order enforcing the subpoena.

"(c) Upon application, the district courts of the United States shall have jurisdiction to issue

writs commanding any person or employer to comply with the subpoena of the Secretary or to comply with any order of the Secretary made pursuant to a lawful investigation under this chapter and the district courts shall have jurisdiction to punish failure to obey a subpoena or other lawful order of the Secretary as a contempt of court.

"(d) Subsections (b) and (c) shall not apply to the legislative branch or the judicial branch of the United States.

#### "SUBCHAPTER IV—MISCELLANEOUS PROVISIONS

##### "§4331. Regulations

"(a) The Secretary (in consultation with the Secretary of Defense) may prescribe regulations implementing the provisions of this chapter with regard to the application of this chapter to States, local governments, and private employers.

"(b)(1) The Director of the Office of Personnel Management (in consultation with the Secretary and the Secretary of Defense) may prescribe regulations implementing the provisions of this chapter with regard to the application of this chapter to Federal executive agencies (other than the agencies referred to in paragraph (2)) as employers. Such regulations shall be consistent with the regulations pertaining to the States as employers and private employers, except that employees of the Federal Government may be given greater or additional rights.

"(2) The following entities may prescribe regulations to carry out the activities of such entities under this chapter:

"(A) The Merit Systems Protection Board.

"(B) The Office of Special Counsel.

"(C) The agencies referred to in section 2303(a)(2)(C)(ii) of title 5.

##### "§4332. Reports

"The Secretary shall, after consultation with the Attorney General and the Special Counsel referred to in section 4324(a)(1) and no later than February 1, 1996, and annually thereafter through 2000, transmit to the Congress, a report containing the following matters for the fiscal year ending before such February 1:

"(1) The number of cases reviewed by the Department of Labor under this chapter during the fiscal year for which the report is made.

"(2) The number of cases referred to the Attorney General or the Special Counsel pursuant to section 4323 or 4324, respectively, during such fiscal year.

"(3) The number of complaints filed by the Attorney General pursuant to section 4323 during such fiscal year.

"(4) The nature and status of each case reported on pursuant to paragraph (1), (2), or (3).

"(5) An indication of whether there are any apparent patterns of violation of the provisions of this chapter, together with an explanation thereof.

"(6) Recommendations for administrative or legislative action that the Secretary, the Attorney General, or the Special Counsel considers necessary for the effective implementation of this chapter, including any action that could be taken to encourage mediation, before claims are filed under this chapter, between employers and persons seeking employment or reemployment.

##### "§4333. Outreach

"The Secretary, the Secretary of Defense, and the Secretary of Veterans Affairs shall take such actions as such Secretaries determine are appropriate to inform persons entitled to rights and benefits under this chapter and employers of the rights, benefits, and obligations of such persons and such employers under this chapter."

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENTS TO TITLE 38.—The tables of chapters at the beginning of title 38, United

States Code, and the beginning of part III of such title are each amended by striking out the item relating to chapter 43 and inserting in lieu thereof the following:

**"43. Employment and reemployment rights of members of the uniformed services . . . . . 4301".**  
 (2) AMENDMENT TO TITLE 5.—(A) Section 1204(a)(1) of title 5, United States Code, is amended by striking out "section 4323" and inserting in lieu thereof "chapter 43".  
 (B) Subchapter II of chapter 35 of such title is repealed.

(C) The table of sections for chapter 35 of such title is amended by striking out the heading relating to subchapter II of such chapter and the item relating to section 3551 of such chapter.

(3) AMENDMENT TO TITLE 10.—Section 706(c)(1) of title 10, United States Code, is amended by striking out "section 4321" and inserting in lieu thereof "chapter 43".

(c) AMENDMENTS TO TITLE 28.—Section 631 of title 28, United States Code, is amended—

(1) by striking out subsection (j);  
 (2) by redesignating subsections (k) and (l) as subsections (j) and (k), respectively; and  
 (3) in subsection (j), as redesignated by paragraph (2), by striking out "under the terms of" and all that follows through "section," the first place it appears and inserting in lieu thereof "under chapter 43 of title 38,".

**SEC. 3. EXEMPTION FROM MINIMUM SERVICE REQUIREMENTS.**

Section 5303A(b)(3) of title 38, United States Code, is amended—

(1) by striking out "or" at the end of subparagraph (E);  
 (2) by striking out the period at the end of subparagraph (F) and inserting in lieu thereof "; or"; and  
 (3) by adding at the end thereof the following new subparagraph:  
 "(G) to benefits under chapter 43 of this title."

**SEC. 4. THRIFT SAVINGS PLAN.**

(a) IN GENERAL.—(1) Title 5, United States Code, is amended by inserting after section 8432a the following:

**"§8432b. Contributions of persons who perform military service**

"(a) This section applies to any employee who—  
 "(1) separates or enters leave-without-pay status in order to perform military service; and  
 "(2) is subsequently restored to or reemployed in a position which is subject to this chapter, pursuant to chapter 43 of title 38.

"(b)(1) Each employee to whom this section applies may contribute to the Thrift Savings Fund, in accordance with this subsection, an amount not to exceed the amount described in paragraph (2).

"(2) The maximum amount which an employee may contribute under this subsection is equal to—

"(A) the contributions under section 8432(a) which would have been made, over the period beginning on date of separation or commencement of leave-without-pay status (as applicable) and ending on the day before the date of restoration or reemployment (as applicable); reduced by  
 "(B) any contributions under section 8432(a) actually made by such employee over the period described in subparagraph (A).

"(3) Contributions under this subsection—  
 "(A) shall be made at the same time and in the same manner as would any contributions under section 8432(a);  
 "(B) shall be made over the period of time specified by the employee under paragraph (4)(B); and  
 "(C) shall be in addition to any contributions then actually being made under section 8432(a).

"(4) The Executive Director shall prescribe the time, form, and manner in which an employee may specify—  
 "(A) the total amount such employee wishes to contribute under this subsection with respect to any particular period referred to in paragraph (2)(B); and  
 "(B) the period of time over which the employee wishes to make contributions under this subsection.

The employing agency may place a maximum limit on the period of time referred to in subparagraph (B), which cannot be shorter than two times the period referred to in paragraph (2)(B) and not longer than four times such period.

"(c) If an employee makes contributions under subsection (b), the employing agency shall make contributions to the Thrift Savings Fund on such employee's behalf—  
 "(1) in the same manner as would be required under section 8432(c)(2) if the employee contributions were being made under section 8432(a); and  
 "(2) disregarding any contributions then actually being made under section 8432(a) and any agency contributions relating thereto.

"(d) An employee to whom this section applies is entitled to have contributed to the Thrift Savings Fund on such employee's behalf an amount equal to—  
 "(1) 1 percent of such employee's basic pay (as determined under subsection (e)) for the period referred to in subsection (b)(2)(B); reduced by  
 "(2) any contributions actually made on such employee's behalf under section 8432(c)(1) with respect to the period referred to in subsection (b)(2)(B).

"(e) For purposes of any computation under this section, an employee shall, with respect to the period referred to in subsection (b)(2)(B), be considered to have been paid at the rate which would have been payable over such period had such employee remained continuously employed in the position which such employee last held before separating or entering leave-without-pay status to perform military service.

"(f)(1) The employing agency may be required to pay lost earnings on contributions made pursuant to subsections (c) and (d). Such earnings, if required, shall be calculated retroactively to the date the contribution would have been made had the employee not separated or entered leave without pay status to perform military service.

"(2) Procedures for calculating and crediting the earnings payable pursuant to paragraph (1) shall be prescribed by the Executive Director.

"(g) Amounts paid under subsection (c), (d), or (f) shall be paid—  
 "(1) by the agency to which the employee is restored or in which such employee is reemployed;  
 "(2) from the same source as would be the case under section 8432(e) with respect to sums required under section 8432(c); and  
 "(3) within the time prescribed by the Executive Director.

"(h)(1) For purposes of section 8432(g), in the case of an employee to whom this section applies—  
 "(A) a separation from civilian service in order to perform the military service on which the employee's restoration or reemployment rights are based shall be disregarded; and  
 "(B) such employee shall be credited with a period of civilian service equal to the period referred to in subsection (b)(2)(B).

"(2)(A) An employee to whom this section applies may elect, for purposes of section 8433(d), or paragraph (1) or (2) of section 8433(h), as the case may be, to have such employee's separation (described in subsection (a)(1)) treated as if it had never occurred.

"(B) An election under this paragraph shall be made within such period of time after res-

toration or reemployment (as the case may be) and otherwise in such manner as the Executive Director prescribes.

"(i) The Executive Director shall prescribe regulations to carry out this section."

(2) The table of sections for chapter 84 of title 5, United States Code, is amended by inserting after the item relating to section 8432a the following:

"8432b. Contributions of persons who perform military service."

(b) PRESERVATION OF CERTAIN RIGHTS.—(1) Section 8433(d) of title 5, United States Code, is amended by striking "subsection (e)." and inserting "subsection (e), unless an election under section 8432b(h)(2) is made to treat such separation for purposes of this subsection as if it had never occurred."

(2) Paragraphs (1) and (2) of section 8433(h) are each amended by striking the period at the end and inserting ", or unless an election under section 8432b(h)(2) is made to treat such separation for purposes of this paragraph as if it had never occurred."

(c) ELECTION TO RESUME REGULAR CONTRIBUTIONS UPON RESTORATION OR REEMPLOYMENT.—Section 8432 of title 5, United States Code, is amended by adding at the end the following:

"(1)(1) This subsection applies to any employee—  
 "(A) to whom section 8432b applies; and  
 "(B) who, during the period of such employee's absence from civilian service (as referred to in section 8432b(b)(2)(B))—  
 "(i) is eligible to make an election described in subsection (b)(1); or  
 "(ii) would be so eligible but for having either elected to terminate individual contributions to the Thrift Savings Fund within 2 months before commencing military service or separated in order to perform military service.

"(2) The Executive Director shall prescribe regulations to ensure that any employee to whom this subsection applies shall, within a reasonable time after being restored or reemployed (in the manner described in section 8432b(a)(2)), be afforded the opportunity to make, for purposes of this section, any election which would be allowable during a period described in subsection (b)(1)(A)."

(d) APPLICABILITY TO EMPLOYEES UNDER CSRS.—Section 8351(b) of title 5, United States Code, is amended by adding at the end the following:

"(11) In applying section 8432b to an employee contributing to the Thrift Savings Fund after being restored to or reemployed in a position subject to this subchapter, pursuant to chapter 43 of title 38—  
 "(A) any reference in such section to contributions under section 8432(a) shall be considered a reference to employee contributions under this section;  
 "(B) the contribution rate under section 8432b(b)(2)(A) shall be the maximum percentage allowable under subsection (b)(2) of this section; and  
 "(C) subsections (c) and (d) of section 8432b shall be disregarded."

(e) EFFECTIVE DATE; APPLICABILITY.—This section and the amendments made by this section—  
 (1) shall take effect on the date of enactment of this Act; and  
 (2) shall apply to any employee whose release from military service, discharge from hospitalization, or other similar event making the individual eligible to seek restoration or reemployment under chapter 43 of title 38, United States Code, occurs on or after August 2, 1990.

(f) RULES FOR APPLYING AMENDMENTS TO EMPLOYEES RESTORED OR REEMPLOYED BEFORE EFFECTIVE DATE.—In the case of any employee (described in subsection (e)(2)) who is reemployed or restored (in the circumstances described in section 8432b(a) of title 5, United

States Code, and the beginning of part III of such title are each amended by striking out the item relating to chapter 43 and inserting in lieu thereof the following:

**"43. Employment and reemployment rights of members of the uniformed services . . . . . 4301".**  
 (2) AMENDMENT TO TITLE 5.—(A) Section 1204(a)(1) of title 5, United States Code, is amended by striking out "section 4323" and inserting in lieu thereof "chapter 43".  
 (B) Subchapter II of chapter 35 of such title is repealed.

(C) The table of sections for chapter 35 of such title is amended by striking out the heading relating to subchapter II of such chapter and the item relating to section 3551 of such chapter.

(3) AMENDMENT TO TITLE 10.—Section 706(c)(1) of title 10, United States Code, is amended by striking out "section 4321" and inserting in lieu thereof "chapter 43".  
 (c) AMENDMENTS TO TITLE 28.—Section 631 of title 28, United States Code, is amended—  
 (1) by striking out subsection (j);  
 (2) by redesignating subsections (k) and (l) as subsections (j) and (k), respectively; and  
 (3) in subsection (j), as redesignated by paragraph (2), by striking out "under the terms of" and all that follows through "section," the first place it appears and inserting in lieu thereof "under chapter 43 of title 38,".

**SEC. 3. EXEMPTION FROM MINIMUM SERVICE REQUIREMENTS.**

Section 5303A(b)(3) of title 38, United States Code, is amended—

(1) by striking out "or" at the end of subparagraph (E);  
 (2) by striking out the period at the end of subparagraph (F) and inserting in lieu thereof "; or"; and  
 (3) by adding at the end thereof the following new subparagraph:  
 "(G) to benefits under chapter 43 of this title."

**SEC. 4. THRIFT SAVINGS PLAN.**

(a) IN GENERAL.—(1) Title 5, United States Code, is amended by inserting after section 8432a the following:

**"§8432b. Contributions of persons who perform military service**

"(a) This section applies to any employee who—  
 "(1) separates or enters leave-without-pay status in order to perform military service; and  
 "(2) is subsequently restored to or reemployed in a position which is subject to this chapter, pursuant to chapter 43 of title 38.  
 "(b)(1) Each employee to whom this section applies may contribute to the Thrift Savings Fund, in accordance with this subsection, an amount not to exceed the amount described in paragraph (2).  
 "(2) The maximum amount which an employee may contribute under this subsection is equal to—  
 "(A) the contributions under section 8432(a) which would have been made, over the period beginning on date of separation or commencement of leave-without-pay status (as applicable) and ending on the day before the date of restoration or reemployment (as applicable); reduced by  
 "(B) any contributions under section 8432(a) actually made by such employee over the period described in subparagraph (A).

"(3) Contributions under this subsection—  
 "(A) shall be made at the same time and in the same manner as would any contributions under section 8432(a);  
 "(B) shall be made over the period of time specified by the employee under paragraph (4)(B); and  
 "(C) shall be in addition to any contributions then actually being made under section 8432(a).

"(4) The Executive Director shall prescribe the time, form, and manner in which an employee may specify—  
 "(A) the total amount such employee wishes to contribute under this subsection with respect to any particular period referred to in paragraph (2)(B); and  
 "(B) the period of time over which the employee wishes to make contributions under this subsection.

The employing agency may place a maximum limit on the period of time referred to in subparagraph (B), which cannot be shorter than two times the period referred to in paragraph (2)(B) and not longer than four times such period.

"(c) If an employee makes contributions under subsection (b), the employing agency shall make contributions to the Thrift Savings Fund on such employee's behalf—  
 "(1) in the same manner as would be required under section 8432(c)(2) if the employee contributions were being made under section 8432(a); and  
 "(2) disregarding any contributions then actually being made under section 8432(a) and any agency contributions relating thereto.

"(d) An employee to whom this section applies is entitled to have contributed to the Thrift Savings Fund on such employee's behalf an amount equal to—  
 "(1) 1 percent of such employee's basic pay (as determined under subsection (e)) for the period referred to in subsection (b)(2)(B); reduced by  
 "(2) any contributions actually made on such employee's behalf under section 8432(c)(1) with respect to the period referred to in subsection (b)(2)(B).

"(e) For purposes of any computation under this section, an employee shall, with respect to the period referred to in subsection (b)(2)(B), be considered to have been paid at the rate which would have been payable over such period had such employee remained continuously employed in the position which such employee last held before separating or entering leave-without-pay status to perform military service.

"(f)(1) The employing agency may be required to pay lost earnings on contributions made pursuant to subsections (c) and (d). Such earnings, if required, shall be calculated retroactively to the date the contribution would have been made had the employee not separated or entered leave without pay status to perform military service.

"(2) Procedures for calculating and crediting the earnings payable pursuant to paragraph (1) shall be prescribed by the Executive Director.

"(g) Amounts paid under subsection (c), (d), or (f) shall be paid—  
 "(1) by the agency to which the employee is restored or in which such employee is reemployed;  
 "(2) from the same source as would be the case under section 8432(e) with respect to sums required under section 8432(c); and  
 "(3) within the time prescribed by the Executive Director.

"(h)(1) For purposes of section 8432(g), in the case of an employee to whom this section applies—  
 "(A) a separation from civilian service in order to perform the military service on which the employee's restoration or reemployment rights are based shall be disregarded; and  
 "(B) such employee shall be credited with a period of civilian service equal to the period referred to in subsection (b)(2)(B).

"(2)(A) An employee to whom this section applies may elect, for purposes of section 8433(d), or paragraph (1) or (2) of section 8433(h), as the case may be, to have such employee's separation (described in subsection (a)(1)) treated as if it had never occurred.

"(B) An election under this paragraph shall be made within such period of time after res-

toration or reemployment (as the case may be) and otherwise in such manner as the Executive Director prescribes.

"(i) The Executive Director shall prescribe regulations to carry out this section."

(2) The table of sections for chapter 84 of title 5, United States Code, is amended by inserting after the item relating to section 8432a the following:

"8432b. Contributions of persons who perform military service."

(b) PRESERVATION OF CERTAIN RIGHTS.—(1) Section 8433(d) of title 5, United States Code, is amended by striking "subsection (e)." and inserting "subsection (e), unless an election under section 8432b(h)(2) is made to treat such separation for purposes of this subsection as if it had never occurred."

(2) Paragraphs (1) and (2) of section 8433(h) are each amended by striking the period at the end and inserting ", or unless an election under section 8432b(h)(2) is made to treat such separation for purposes of this paragraph as if it had never occurred."

(c) ELECTION TO RESUME REGULAR CONTRIBUTIONS UPON RESTORATION OR REEMPLOYMENT.—Section 8432 of title 5, United States Code, is amended by adding at the end the following:

"(1)(1) This subsection applies to any employee—  
 "(A) to whom section 8432b applies; and  
 "(B) who, during the period of such employee's absence from civilian service (as referred to in section 8432b(b)(2)(B))—  
 "(i) is eligible to make an election described in subsection (b)(1); or  
 "(ii) would be so eligible but for having either elected to terminate individual contributions to the Thrift Savings Fund within 2 months before commencing military service or separated in order to perform military service.

"(2) The Executive Director shall prescribe regulations to ensure that any employee to whom this subsection applies shall, within a reasonable time after being restored or reemployed (in the manner described in section 8432b(a)(2)), be afforded the opportunity to make, for purposes of this section, any election which would be allowable during a period described in subsection (b)(1)(A)."

(d) APPLICABILITY TO EMPLOYEES UNDER CSRS.—Section 8351(b) of title 5, United States Code, is amended by adding at the end the following:

"(11) In applying section 8432b to an employee contributing to the Thrift Savings Fund after being restored to or reemployed in a position subject to this subchapter, pursuant to chapter 43 of title 38—  
 "(A) any reference in such section to contributions under section 8432(a) shall be considered a reference to employee contributions under this section;  
 "(B) the contribution rate under section 8432b(b)(2)(A) shall be the maximum percentage allowable under subsection (b)(2) of this section; and  
 "(C) subsections (c) and (d) of section 8432b shall be disregarded."

(e) EFFECTIVE DATE; APPLICABILITY.—This section and the amendments made by this section—  
 (1) shall take effect on the date of enactment of this Act; and  
 (2) shall apply to any employee whose release from military service, discharge from hospitalization, or other similar event making the individual eligible to seek restoration or reemployment under chapter 43 of title 38, United States Code, occurs on or after August 2, 1990.

(f) RULES FOR APPLYING AMENDMENTS TO EMPLOYEES RESTORED OR REEMPLOYED BEFORE EFFECTIVE DATE.—In the case of any employee (described in subsection (e)(2)) who is reemployed or restored (in the circumstances described in section 8432b(a) of title 5, United

States Code, and the beginning of part III of such title are each amended by striking out the item relating to chapter 43 and inserting in lieu thereof the following:

**"43. Employment and reemployment rights of members of the uniformed services . . . . . 4301".**  
 (2) AMENDMENT TO TITLE 5.—(A) Section 1204(a)(1) of title 5, United States Code, is amended by striking out "section 4323" and inserting in lieu thereof "chapter 43".  
 (B) Subchapter II of chapter 35 of such title is repealed.

(C) The table of sections for chapter 35 of such title is amended by striking out the heading relating to subchapter II of such chapter and the item relating to section 3551 of such chapter.

(3) AMENDMENT TO TITLE 10.—Section 706(c)(1) of title 10, United States Code, is amended by striking out "section 4321" and inserting in lieu thereof "chapter 43".  
 (c) AMENDMENTS TO TITLE 28.—Section 631 of title 28, United States Code, is amended—  
 (1) by striking out subsection (j);  
 (2) by redesignating subsections (k) and (l) as subsections (j) and (k), respectively; and  
 (3) in subsection (j), as redesignated by paragraph (2), by striking out "under the terms of" and all that follows through "section," the first place it appears and inserting in lieu thereof "under chapter 43 of title 38,".

**SEC. 3. EXEMPTION FROM MINIMUM SERVICE REQUIREMENTS.**

Section 5303A(b)(3) of title 38, United States Code, is amended—

(1) by striking out "or" at the end of subparagraph (E);  
 (2) by striking out the period at the end of subparagraph (F) and inserting in lieu thereof "; or"; and  
 (3) by adding at the end thereof the following new subparagraph:  
 "(G) to benefits under chapter 43 of this title."

**SEC. 4. THRIFT SAVINGS PLAN.**

(a) IN GENERAL.—(1) Title 5, United States Code, is amended by inserting after section 8432a the following:

**"§8432b. Contributions of persons who perform military service**

"(a) This section applies to any employee who—  
 "(1) separates or enters leave-without-pay status in order to perform military service; and  
 "(2) is subsequently restored to or reemployed in a position which is subject to this chapter, pursuant to chapter 43 of title 38.  
 "(b)(1) Each employee to whom this section applies may contribute to the Thrift Savings Fund, in accordance with this subsection, an amount not to exceed the amount described in paragraph (2).  
 "(2) The maximum amount which an employee may contribute under this subsection is equal to—  
 "(A) the contributions under section 8432(a) which would have been made, over the period beginning on date of separation or commencement of leave-without-pay status (as applicable) and ending on the day before the date of restoration or reemployment (as applicable); reduced by  
 "(B) any contributions under section 8432(a) actually made by such employee over the period described in subparagraph (A).

"(3) Contributions under this subsection—  
 "(A) shall be made at the same time and in the same manner as would any contributions under section 8432(a);  
 "(B) shall be made over the period of time specified by the employee under paragraph (4)(B); and  
 "(C) shall be in addition to any contributions then actually being made under section 8432(a).

"(4) The Executive Director shall prescribe the time, form, and manner in which an employee may specify—  
 "(A) the total amount such employee wishes to contribute under this subsection with respect to any particular period referred to in paragraph (2)(B); and  
 "(B) the period of time over which the employee wishes to make contributions under this subsection.

The employing agency may place a maximum limit on the period of time referred to in subparagraph (B), which cannot be shorter than two times the period referred to in paragraph (2)(B) and not longer than four times such period.

"(c) If an employee makes contributions under subsection (b), the employing agency shall make contributions to the Thrift Savings Fund on such employee's behalf—  
 "(1) in the same manner as would be required under section 8432(c)(2) if the employee contributions were being made under section 8432(a); and  
 "(2) disregarding any contributions then actually being made under section 8432(a) and any agency contributions relating thereto.

"(d) An employee to whom this section applies is entitled to have contributed to the Thrift Savings Fund on such employee's behalf an amount equal to—  
 "(1) 1 percent of such employee's basic pay (as determined under subsection (e)) for the period referred to in subsection (b)(2)(B); reduced by  
 "(2) any contributions actually made on such employee's behalf under section 8432(c)(1) with respect to the period referred to in subsection (b)(2)(B).

"(e) For purposes of any computation under this section, an employee shall, with respect to the period referred to in subsection (b)(2)(B), be considered to have been paid at the rate which would have been payable over such period had such employee remained continuously employed in the position which such employee last held before separating or entering leave-without-pay status to perform military service.

"(f)(1) The employing agency may be required to pay lost earnings on contributions made pursuant to subsections (c) and (d). Such earnings, if required, shall be calculated retroactively to the date the contribution would have been made had the employee not separated or entered leave without pay status to perform military service.

"(2) Procedures for calculating and crediting the earnings payable pursuant to paragraph (1) shall be prescribed by the Executive Director.

"(g) Amounts paid under subsection (c), (d), or (f) shall be paid—  
 "(1) by the agency to which the employee is restored or in which such employee is reemployed;  
 "(2) from the same source as would be the case under section 8432(e) with respect to sums required under section 8432(c); and  
 "(3) within the time prescribed by the Executive Director.

"(h)(1) For purposes of section 8432(g), in the case of an employee to whom this section applies—  
 "(A) a separation from civilian service in order to perform the military service on which the employee's restoration or reemployment rights are based shall be disregarded; and  
 "(B) such employee shall be credited with a period of civilian service equal to the period referred to in subsection (b)(2)(B).

"(2)(A) An employee to whom this section applies may elect, for purposes of section 8433(d), or paragraph (1) or (2) of section 8433(h), as the case may be, to have such employee's separation (described in subsection (a)(1)) treated as if it had never occurred.

"(B) An election under this paragraph shall be made within such period of time after res-

toration or reemployment (as the case may be) and otherwise in such manner as the Executive Director prescribes.

States Code, as amended by this section) before the date of enactment of this Act, the amendments made by this section shall apply to such employee, in accordance with their terms, subject to the following:

(1) The employee shall be deemed not to have been reemployed or restored until—

(A) the date of enactment of this Act, or  
(B) the first day following such employee's reemployment or restoration on which such employee is or was eligible to make an election relating to contributions to the Thrift Savings Fund, whichever occurs or occurred first.

(2) If the employee changed agencies during the period between date of actual reemployment or restoration and the date of enactment of this Act, the employing agency as of such date of enactment shall be considered the reemploying or restoring agency.

(3)(A) For purposes of any computation under section 8432b of such title, pay shall be determined in accordance with subsection (e) of such section, except that, with respect to the period described in subparagraph (B), actual pay attributable to such period shall be used.

(B) The period described in this subparagraph is the period beginning on the first day of the first applicable pay period beginning on or after the date of the employee's actual reemployment or restoration and ending on the day before the date determined under paragraph (1).

(4) Deem section 8432b(b)(2)(A) of such title to be amended by striking "ending on the day before the date of restoration or reemployment (as applicable)" and inserting "ending on the date determined under section 4(f)(1) of the Uniformed Services Employment and Reemployment Rights Act of 1994".

#### SEC. 5. REVISION OF FEDERAL CIVIL SERVICE RETIREMENT BENEFIT PROGRAM FOR RESERVISTS.

(a) CREDITABLE MILITARY SERVICE UNDER CSRS.—Section 8331(13) of title 5, United States Code, is amended in the flush matter by inserting "or full-time National Guard duty (as such term is defined in section 101(d) of title 10) if such service interrupts creditable civilian service under this subchapter and is followed by reemployment in accordance with chapter 43 of title 38 that occurs on or after August 1, 1990" before the semicolon.

(b) PAY DEDUCTIONS FOR MILITARY SERVICE UNDER CSRS.—Section 8334(j) of such title is amended—

(1) in paragraph (1)—  
(A) by striking "Each employee" and inserting "(A) Except as provided in subparagraph (B), each employee"; and

(B) by adding at the end the following:  
"(B) In any case where military service interrupts creditable civilian service under this subchapter and reemployment pursuant to chapter 43 of title 38 occurs on or after August 1, 1990, the deposit payable under this paragraph may not exceed the amount that would have been deducted and withheld under subsection (a)(1) from basic pay during civilian service if the employee had not performed the period of military service."; and

(2) in paragraph (2), immediately before the comma at the end of subparagraph (B), by inserting "following the period of military service for which such deposit is due".

(c) CREDITABLE MILITARY SERVICE UNDER FERS.—Section 8401(31) of such title is amended in the flush matter by inserting "or full-time National Guard duty (as such term is defined in section 101(d) of title 10) if such service interrupts creditable civilian service under this subchapter and is followed by reemployment in accordance with chapter 43 of title 38 that occurs on or after August 1, 1990" before the semicolon.

(d) PAY DEDUCTIONS FOR MILITARY SERVICE UNDER FERS.—Section 8422(e) of such title is amended—

(1) in paragraph (1)—

(A) by striking "Each employee" and inserting "(A) Except as provided in subparagraph (B), each employee"; and

(B) by adding at the end the following:  
"(B) In any case where military service interrupts creditable civilian service under this subchapter and reemployment pursuant to chapter 43 of title 38 occurs on or after August 1, 1990, the deposit payable under this paragraph may not exceed the amount that would have been deducted and withheld under subsection (a)(1) from basic pay during civilian service if the employee had not performed the period of military service."; and

(2) in paragraph (2), immediately before the comma at the end of subparagraph (B), by inserting "following the period of military service for which such deposit is due".

(e) TECHNICAL AMENDMENTS.—Title 5, United States Code, is amended as follows:

(1) In section 8401(11), by striking out "1954" in the flush matter above clause (i) and inserting in lieu thereof "1986".

(2) In section 8422(a)(2)(A)(ii), by striking out "1954" and inserting in lieu thereof "1986".

(3) In section 8432(d), by striking out "1954" in the first sentence and inserting in lieu thereof "1986".

(4) In section 8433(i)(4), by striking out "1954" and inserting in lieu thereof "1986".

(5) In section 8440—

(A) by striking out "1954" in subsection (a) and inserting in lieu thereof "1986"; and

(B) by striking out "1954" in subsection (c) and inserting in lieu thereof "1986".

#### SEC. 6. TECHNICAL AMENDMENT.

(a) TECHNICAL AMENDMENT.—Section 9(d) of Public Law 102-16 (105 Stat. 55) is amended by striking out "Act" the first place it appears and inserting in lieu thereof "section".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in Public Law 102-16 to which such amendment relates.

#### SEC. 7. INCREASE IN AMOUNT OF LOAN GUARANTEE FOR LOANS FOR THE PURCHASE OR CONSTRUCTION OF HOMES.

Subparagraphs (A)(i)(IV) and (B) of section 3703(a)(1) of title 38, United States Code, are each amended by striking out "\$46,000" and inserting in lieu thereof "\$50,750".

#### SEC. 8. TRANSITION RULES AND EFFECTIVE DATES.

(a) REEMPLOYMENT.—(1) Except as otherwise provided in this Act, the amendments made by this Act shall be effective with respect to reemployments initiated on or after the first day after the 60-day period beginning on the date of enactment of this Act.

(2) The provisions of chapter 43 of title 38, United States Code, in effect on the day before such date of enactment, shall continue to apply to reemployments initiated before the end of such 60-day period.

(3) In determining the number of years of service that may not be exceeded in an employee-employer relationship with respect to which a person seeks reemployment under chapter 43 of title 38, United States Code, as in effect before or after the date of enactment of this Act, there shall be included all years of service without regard to whether the periods of service occurred before or after such date of enactment unless the period of service is exempted by the chapter 43 that is applicable, as provided in paragraphs (1) and (2), to the reemployment concerned.

(4) A person who initiates reemployment under chapter 43 of title 38, United States Code, during or after the 60-day period beginning on the date of enactment of this Act and whose reemployment is made in connection with a period

of service in the uniformed services that was initiated before the end of such period shall be deemed to have satisfied the notification requirement of section 4312(a)(1) of title 38, United States Code, as provided in the amendments made by this Act, if the person complied with any applicable notice requirement under chapter 43, United States Code, as in effect on the day before the date of enactment of this Act.

(b) DISCRIMINATION.—The provisions of section 4311 of title 38, United States Code, as provided in the amendments made by this Act, and the provisions of subchapter III of chapter 43 of such title, as provided in the amendments made by this Act, that are necessary for the implementation of such section 4311 shall become effective on the date of enactment of this Act.

(c) INSURANCE.—(1) The provisions of section 4316 of title 38, United States Code, as provided in the amendments made by this Act, concerning insurance coverage (other than health) shall become effective with respect to furloughs or leaves of absence initiated on or after the date of enactment of this Act.

(2) With respect to the provisions of section 4317 of title 38, United States Code, as provided in the amendments made by this Act, a person on active duty on the date of enactment of this Act, or a family member or personal representative of such person, may, after the date of enactment of this Act, elect to reinstate or continue a health plan as provided in such section 4317. If such an election is made, the health plan shall remain in effect for the remaining portion of the 18-month period that began on the date of such person's separation from civilian employment or the period of the person's service in the uniformed service, whichever is the period of lesser duration.

(d) DISABILITY.—(1) Section 4313(a)(3) of chapter 43 of title 38, United States Code, as provided in the amendments made by this Act, shall apply to reemployments initiated on or after August 1, 1990.

(2) Effective as of August 1, 1990, section 4307 of title 38, United States Code (as in effect on the date of enactment of this Act), is repealed, and the table of sections at the beginning of chapter 43 of such title (as in effect on the date of enactment of this Act) is amended by striking out the item relating to section 4307.

(e) INVESTIGATIONS AND SUBPOENAS.—The provisions of section 4326 of title 38, United States Code, as provided in the amendments made by this Act, shall become effective on the date of the enactment of this Act and apply to any matter pending with the Secretary of Labor under section 4305 of title 38, United States Code, as of that date.

(f) PREVIOUS ACTIONS.—Except as otherwise provided, the amendments made by this Act do not affect reemployments that were initiated, rights, benefits, and duties that matured, penalties that were incurred, and proceedings that begin before the end of the 60-day period referred to in subsection (a).

(g) RIGHTS AND BENEFITS RELATIVE TO NOTICE OF INTENT NOT TO RETURN.—Section 4316(b)(2) of title 38, United States Code, as added by the amendments made by this Act, applies only to the rights and benefits provided in section 4316(b)(1)(B) and does not apply to any other right or benefit of a person under chapter 43 of title 38, United States Code. Such section shall apply only to persons who leave a position of employment for service in the uniformed services more than 60 days after the date of enactment of this Act.

(h) EMPLOYER PENSION BENEFIT PLANS.—(1) Nothing in this Act shall be construed to relieve an employer of an obligation to provide contributions to a pension plan (or provide pension benefits), or to relieve the obligation of a pension plan to provide pension benefits, which is

required by the provisions of chapter 43 of title 38, United States Code, in effect on the day before this Act takes effect.

(2) If any employee pension benefit plan is not in compliance with section 4318 of such title or paragraph (1) of this subsection on the date of enactment of this Act, such plan shall have two years to come into compliance with such section and paragraph.

(i) **DEFINITION.**—For the purposes of this section, the term "service in the uniformed services" shall have the meaning given such term in section 4303(13) of title 38, United States Code, as provided in the amendments made by this Act.

Mr. ROCKEFELLER. Madam President, as chairman of the Committee on Veterans' Affairs, I am enormously pleased that the Senate is about to take final action on H.R. 995, the proposed Uniformed Services Employment and Reemployment Rights Act of 1994, legislation which would revise and improve the Veterans Reemployment Rights [VRR] law, found in chapter 43 of title 38, United States Code, this is the final legislative action in an effort that dates back to the early days of the last Congress.

The pending measure, H.R. 995, with a House amendment to the Senate amendment to the original House bill, represents a compromise agreement that the Veterans' Affairs Committees of the House of Representatives and Senate have reached on H.R. 995 as originally passed by the House on May 4, 1993, and as passed by the Senate on November 8, 1993. This measure, which I will refer to as the compromise agreement, would, as would the original House and Senate versions in somewhat different ways, completely revise chapter 43 of title 38, United States Code, in order to clarify VRR law provisions and to make improvements in various aspects of this over-50-year-old law. The VRR law has as its core principle ensuring that an individual who enters the military for a short period of service can return to the civilian job held before entering service and can do so with no loss of seniority or benefits based on seniority.

Madam President, the House passed this compromise agreement on September 13, 1994, and I urge my colleagues to give this measure their unanimous support and send it to the White House for the President's signature.

#### BACKGROUND

Madam President, the VRR law, first enacted in 1940, provides job security to employees who leave their civilian jobs in order to enter active military service, voluntarily or involuntarily. Within certain limits, the law generally entitles an individual who serves in the military to return to his or her former civilian job after being discharged or released from active duty under honorable conditions. For purposes of seniority, status, and pay, the employee is entitled to be treated as though he or she never left. The effect of this law is often characterized as enabling the re-

turning veteran to step back on the seniority escalator at the point he or she would have occupied without interruption for military service. The law applies both to active-duty service and to training periods served by reservists and members of the National Guard.

The VRR law is intended to encourage noncareer service in the uniformed services by eliminating or minimizing the disadvantages to civilian careers and employment which occur as a result of such service. The pending measure would help ensure that the VRR law effectively and fairly continues to serve this historical purpose.

The compromise agreement is also aimed at clarifying the VRR law. It is important that both employees and employers be able to understand this law clearly so that active-duty servicemembers and reservists, whether they serve on active duty during an extended conflict, such as in Operation Desert Shield/Desert Storm, or participate in routine training, do not experience unnecessary delays or disputes in returning to their former civilian jobs. Unfortunately, over the last 54 years the VRR law has become a confusing and cumbersome patchwork of statutory amendments and judicial constructions that, at times, hinder the resolution of claims. Thus, the compromise agreement would amend the VRR law to restate past amendments in a clearer manner and incorporate important court decisions interpreting the law. The substantive rights at the heart of the VRR law would remain as valuable protection to those who provide this country with noncareer service in the uniformed services.

Madam President, Congress has long recognized that the support of civilian employers is necessary if the uniformed services are to be able to recruit and retain noncareer personnel. I sincerely appreciate the very cooperative and patriotic manner in which the vast majority of employers have carried out their responsibilities under the VRR law. The compromise agreement is designed to take into account the legitimate interests and needs of employers and to assist them by stating their obligations in a clear fashion.

Both the House and the Senate Committees on Veterans' Affairs and the administration committed much time and energy to the revision and improvement of this law over the past several years. For over 3 years, beginning in the mid-1980's, and executive branch task force on VRR law, including representatives of the Departments of Labor, Defense, and Justice and the Office of Personnel Management, worked to develop a revision of chapter 43. H.R. 1578, the proposed Uniformed Services Employment and Reemployment Rights Act of 1991, as passed by the House on May 14, 1991, was similar to and largely derived from draft legislation submitted by the administration

in early 1991. H.R. 1578 was modified and passed again by the House on October 1, 1992.

The Senate Committee on Veterans' Affairs during the 102d Congress worked closely with representatives from each of the Federal agencies responsible for administering the VRR law in developing the Senate bill, S. 1095, the proposed Uniformed Services Employment and Reemployment Rights Act of 1991. Our committee held a hearing on the legislation and subsequently filed a report on S. 1095 on November 7, 1991. Unfortunately, the Senate was unable to proceed to the consideration of S. 1095 until October 1, 1992—only a few days before adjournment of the 102d Congress—and, as a result, no further action was possible.

In this Congress, I introduced VRR legislation on April 29, 1993, as S. 843. The committee held a hearing on this bill on May 13, 1993, and the bill was reported on October 18, 1993. As I noted a moment ago, the Senate passed this legislation on November 8, 1993. I refer my colleagues and all others with an interest in the bill as reported to the committee report, Senate Report No. 103-158.

Because the provisions of the compromise agreement are describe in detail in an explanatory statement—developed jointly with our colleagues on the House Committee on Veterans' Affairs and which my good friend, the chairman of the House Committee, SONNY MONTGOMERY, inserted in the RECORD during House passage of this measure on September 13, 1994—I will at this point just summarize chapter 43 as it would be amended by the compromise agreement.

#### SUMMARY

Madam President, as it would be modified by the compromise agreement, chapter 43 of title 38 would:

Continue to protect employees or applicants for employment from discrimination or reprisal based on their military obligation, and add a prohibition of employer reprisals against witnesses in reemployment rights cases. I note, as the committee report did (page 45), that the portion of new section 4311 which would codify the burden and standard of proof in discrimination cases is merely a reaffirmation of the original intent of Congress when present section 2021(b)(3) was enacted in 1968. The restatement of the standard and burden of proof in the compromise agreement is, therefore, meant to be applicable to all discrimination cases based on the VRR law regardless of when the claim first arose.

Place a 5-year limit, with certain exceptions, on the cumulative length of time that an individual may be absent from a position of employment and still be eligible for reemployment rights with respect to that position.

Repeal the exclusion of individuals who held temporary positions from reemployment protection.

Generally base time requirements for returning to work or applying for re-employment on the length of the individual's absence for service.

Require an absent individual—or an appropriate officer of the uniformed service—to give the employer advance written or verbal notice of service.

Allow employers who reemploy individuals absent for more than 90 days for active-duty service to require documentation regarding their service before they would become entitled to pension benefits with respect to the period of service.

Codify court holdings that entitlement to reemployment protection does not depend upon the timing, frequency, duration, or nature of an individual's service.

Require employers to make reasonable efforts—actions, including training, that do not create an undue hardship on the employer—to refresh or update the skills of an individual who needs training in order to qualify for reemployment.

Require employers to make reasonable efforts to accommodate the disability of an individual seeking employment who has a service-connected disability.

Ensure an individual whose reemployment in a legislative or judicial branch position, or as a National Guard technician, is impossible or unreasonable, an offer of alternative employment in a Federal executive agency in a position of like seniority, status, and pay.

Maintain the so-called escalator principle under which an individual absent from employment by reason of service in the uniformed services is entitled, upon being reemployed, to the seniority and other rights and benefits determined by seniority the individual had when he or she began service plus the additional seniority and rights and benefits he or she would have attained if the person had remained continuously employed.

Reaffirm that while an individual is performing service in the uniformed services, he or she is deemed to be on furlough or leave of absence and is entitled to those other rights and benefits not determined by seniority which were in effect at the beginning of the service, unless the individual knowingly waives this entitlement by indicating that he or she does not intend to return to the civilian position.

Provide that if an individual's employer-sponsored health plan coverage would otherwise terminate due to an extended absence from employment for purposes of service in the uniformed services, he or she may elect to continue the health plan coverage for up to 18 months after the absence begins or for the period of service, whichever period is the lesser. The individual generally could be required to pay no more than 102 percent of the full premium

for the coverage, and an individual serving for less than 31 days could not be required to pay more than the normal employee share of any premium.

Provide that a reemployed individual whose period of service was more than 30 days but less than 181 days could not be removed without cause for 6 months; and an individual whose period of service was more than 180 days could not be removed without cause for 1 year.

Provide that an individual, upon submitting a written request to his or her employer, would be able to use accrued vacation or annual leave while serving in the uniformed services.

Provide that, for pension purposes, an individual must be treated as not having incurred a break in service with the employer; service in the uniformed services would be considered service with the employer for vesting and benefit accrual purposes; the employer who reemploys the individual is liable for funding any resulting obligation; and the reemployed individual would be entitled to any accrued benefits from employee contributions only to the extent that the individual makes payments with respect to the contributions.

Provide that, in a multiemployer defined contribution pension plan, the sponsor maintaining the plan may allocate among the participating employers the liability of the plan for pension benefits accrued by individuals who are absent for service in the uniformed services. If no cost-sharing arrangement is provided, the full liability to make the retroactive contributions to the plan would be allocated to the last employer employing the person before the period of uniformed service or, if that employer is no longer functional, to the overall plan.

Provide that a returning employee's payments into the pension plan may be made, as the employer and employee may agree, during any reasonable continuous period—beginning with the date of reemployment, but in no event will the individual be afforded a payment period shorter than the length of absence for service for which the payments are due.

Provide, for the purposes of determining an employer's liability or an employee's contributions under a pension benefit plan, that the employee's reconstructed compensation during the period of his or her service in the uniformed services would be based on the rate of pay the employee would have received from the employer but for the absence during the period of service, or if the employee's compensation was not based on a fixed rate, on the basis of the employee's average rate of pay during the 12-month period immediately preceding his or her entry into service—or, if shorter than 12 months, the period of employment immediately preceding entry into service.

Require the Secretary of Labor to investigate an individual's complaint that the employer has failed or refused, or is about to fail or refuse, to comply with the reemployment law, and require the Secretary to make reasonable efforts to ensure compliance.

Authorize the Secretary of Labor to require by subpoena the attendance and testimony of witnesses and the production of documents relating to any matter under investigation.

Enable Federal executive agency employees whose cases are not resolved successfully by the Department of Labor to receive representation by the Office of Special Counsel before the Merit Systems Protection Board [MSPB] and the U.S. Court of Appeals.

Provide that an individual would be able to petition a U.S. Court of Appeals to review a decision of the MSPB.

Require the heads of intelligence agencies, which are otherwise exempt from enforcement procedures of the reemployment laws applicable to Federal agencies, to prescribe the conditions under which individuals who are absent from employment by reason of service in the uniformed services will be reemployed and the procedures for ensuring that those who satisfy the conditions are reemployed. In cases where it is impossible, unreasonable, or not practicable to reemploy an individual, the agency head would be required to notify the individual and the Director of the Office of Personnel Management [OPM]. The Director of OPM would be required to place the individual in a comparable position elsewhere in a Federal executive agency.

Authorize the award of attorneys' fees and expenses to employees who choose to be represented by private counsel and who prevail in court.

Provide for liquidated damages in an amount equal to the compensatory damages awarded in a case in which an employee prevails against a State—as an employer—or a private employer in court and the court determines that the employer's failure to comply with the provisions of the employment law was willful.

Provide that, effective August 1, 1990, the amount of Federal civil service retirement payments for a period of military service may not exceed the amount that would have been deducted or withheld for a period of civilian service if the employee had not performed the period of military service.

Provide for the treatment of contributions to the Thrift Savings Fund by Federal employees who perform military service.

#### CONCLUSION

Madam President, before closing I note one issue that involves a matter related to the compromise agreement which is under the jurisdiction of the Finance Committee, a committee on which I am privileged to serve. This matter relates to provisions in the

compromise agreement which address a returning servicemember's rights to participate in the employer's pension plan and more specifically, the relationship between the VRR law and the Internal Revenue Code. Under the VRR law as it will be amended, it is possible that a pension plan, by seeking to comply with the VRR law, could have to make payments on behalf of now returned servicemembers that could cause the plan to go out of compliance with the Internal Revenue Code because of the total amount of payments made by the plan in a given year. Obviously, this is a situation that is not intended and which should be avoided. However, the appropriate remedy—an amendment to the Internal Revenue Code—is in the jurisdiction of the Finance Committee and thus the matter cannot be resolved in the compromise agreement.

Madam President, so as to allow time for such an amendment to be considered, the compromise agreement provides a 2-year period before compliance with the pension provisions in the agreement would be required. It is my intention, which I have communicated to Senator MOYNIHAN in his role as chairman of the Finance Committee, to take the lead in the Finance Committee in proposing the appropriate amendment to the Internal Revenue Code as part of the first appropriate tax bill. In addition, I have indicated to Chairman MOYNIHAN that, should such an amendment not be in law as the 2-year window provided in the compromise agreement nears its end, I will work to amend the VRR law so as to provide for a further delay in the effective date of the pension provisions. I very much appreciate Senator MOYNIHAN's assistance and cooperation on this issue which facilitates Senate action on the compromise agreement.

Madam President, this is a good and needed piece of legislation and I urge my colleagues to give it their full support. I thank my good friends SONNY MONTGOMERY and Representative BOB STUMP, the chairman and ranking minority member of the House Committee on Veterans' Affairs for their cooperation and assistance as we have developed this compromise. I also thank our committee's ranking minority member, my good friend FRANK MURKOWSKI, and all the members of the Senate committee for their support on this measure. I thank the staff who have worked so long and hard on this compromise—Jill Cochran, Joe Womack, Pat Ryan, Mack Fleming, and Kingston Smith on the House committee, and Bill Brew, Jim Gottlieb, Bill Tuerk, and John Moseman with the Senate committee. I also thank Wade Ballou and Charlie Armstrong of the House and Senate Offices of Legislative Counsel for their excellent assistance and support in drafting the compromise agreement. Finally, I

would be remiss were I to fail to note the tremendous work done on this legislation by Chuck Lee, a former member of the staff of the Senate committee, prior to his taking another position earlier this year.

Madam President, I ask unanimous consent that the explanatory statement that I mentioned earlier be printed in the RECORD.

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

#### EXPLANATORY STATEMENT ON H.R. 995

H.R. 995 reflects a compromise agreement that the Senate and House of Representatives Committees on Veterans' Affairs have reached on certain bills considered in the Senate and the House of Representatives during the 103d Congress. These measures are H.R. 995, which the House passed on May 4, 1993, (hereinafter referred to as "House bill"), and the text of S. 843, which the Senate passed on November 8, 1993, as an amendment to H.R. 995 (hereinafter referred to as "Senate amendment").

The Committees on Veterans' Affairs of the Senate and the House of Representatives have prepared the following explanation of H.R. 995 as amended (hereinafter referred to as the "compromise agreement"). Differences between the provisions contained in the compromise agreement and the related provisions in the above-mentioned House bill and Senate amendment are noted in this document, except for clerical corrections, conforming changes made necessary by the compromise agreement, and minor drafting, technical, and clarifying changes.

#### SCOPE OF COVERAGE

Current law: Section 4301(a) provides that an individual must have left a position (other than temporary) in the employ of an employer in order to perform training or service in the Armed Forces to be eligible for reemployment rights and benefits.

House bill: Proposed new section 4312(a) would provide that an individual must have left a position (other than temporary) in the employ of an employer for voluntary or involuntary service in the uniformed service to be entitled to a leave of absence or, upon completion of service, to reemployment.

Proposed new section 4303(8) would define "other than a temporary position" to mean a position of employment as to which there is a reasonable expectation that it will continue indefinitely.

Senate amendment: Proposed new section 4312(a) is similar to the provision in the House bill, but would not exclude individuals who held temporary positions when they entered the uniformed services from eligibility for reemployment rights and benefits. Also, proposed new section 4303 would not define the term "other than a temporary position."

Compromise agreement: Section 4312(d)(1)(C) would provide that an employer is not required to reemploy an individual if his or her employment prior to military service was for a brief, nonrecurrent period and there was no reasonable expectation that it would continue indefinitely or for a significant period.

The compromise agreement would not, therefore, include a definition of the term "other than a temporary position."

#### PROHIBITION AGAINST DISCRIMINATION AND ACTS OF REPRISAL

Current law: Section 4301(b)(3) provides that an individual may not be denied hiring,

retention in employment, or any promotion or other incident or advantage of employment because of any obligation as a member of a Reserve component of the Armed Forces.

House bill: Proposed new section 4311 would provide that (1) an individual may not be denied initial employment, reemployment, retention in employment, promotion, or any benefit of employment because of present or past application for or membership in a uniformed service, or obligation for future service; (2) an employer is considered to have committed a prohibited act of discrimination or reprisal against an individual if the individual's service, application, or obligation for service was a motivating factor in the employer's action, unless the employer can prove that the action would have been taken in the absence of the service, application, or obligation for service; (3) an employer may not discriminate against or take any adverse employment action against any individual because that individual has filed a claim under the Act, sought assistance concerning an alleged violation, testified in a proceeding, assisted or otherwise participated in an investigation, or exercised any right under the reemployment law; and (4) the prohibitions regarding discrimination will apply with respect to an individual regardless of whether that individual has performed service in the uniformed services.

Senate amendment: Proposed new section 4311 is substantively identical to the House provision but would extend protection under the reemployment law to employees in a foreign country.

Compromise agreement: Section 4311 does not contain protection for employees in a foreign country.

#### MAXIMUM PERIOD OF SERVICE FOR COVERAGE

Current law: Under section 4304, an individual is permitted to remain on active duty for a total of four years and still retain reemployment rights. An additional year of eligibility for reemployment rights is granted if an individual remains on active duty beyond the four-year period at the request of, and for the convenience of, the Federal Government. Active duty for training and inactive duty does not count toward the five years.

House bill: Subsections (a) and (c) of proposed new section 4312 would provide for a five-year limit on an individual's cumulative length of absence from a position of employment with the employer by reason of service in the uniformed services for the purposes of reemployment rights and benefits. This would include all types of service except (1) service required beyond five years to complete an initial period of obligated services; (2) service from which the individual, through no fault of his or her own, is unable to obtain a release from service within the five-year limit; (3) service for statutorily mandated training or to fulfill additional training requirements determined by the Secretary of Defense to be necessary for individual professional skill development; (4) service resulting from an order to, or retention on, active duty during a war or national emergency under a law or joint resolution related to a specific crisis situation; (5) service resulting from an order to active duty in support of an operational mission for which personnel have been ordered to active duty in section 673b of title 10, United States Code; (6) service resulting from an order to active duty in support, as determined by the Secretary concerned, of a critical mission or requirement of the uniformed services; or (7) service resulting from an order to active duty by the President of members of the National Guard to suppress an insurrection.

repel an invasion by a foreign nation, suppress a rebellion, or execute laws of the United States that the President is unable to execute with the regular army.

Senate amendment: Subsections (a) and (c) of proposed new section 4312 are substantively identical to the House provision, but with additional coverage of Coast Guard personnel ordered to or retained on active duty under circumstances excepted for other uniformed service personnel.

Compromise agreement: Subsections (a) and (c) of section 4312 contain the Senate provision.

#### APPLICATIONS FOR REEMPLOYMENT

Current law: Section 4301(a) requires that an individual who is inducted into the Armed Forces generally must make application for reemployment within 90 days after separation. Section 4304(a) requires the same application obligation of an individual who enlists in the Armed Forces. Subsections (c) and (g) of section 4304 require that a member of a Reserve component who is ordered to an initial period of active duty for training of not less than 12 consecutive weeks or who is ordered to active duty other than for training under section 673b of title 10, generally must make application for reemployment within 31 days after separation; section 4304(d) provides that all other individuals required to perform active duty for training or inactive duty training must report to work at the beginning of the next regularly scheduled working period after expiration of the last calendar day necessary to travel from the place of training to the place of employment following the employee's release, or within a reasonable time thereafter if delayed return is due to factors beyond the employee's control.

Under current law, if an individual is hospitalized incident to active duty, the application for reemployment generally must be made within the foregoing timeframes determined by the individual's type or category of military training or service. However, the application period begins upon discharge from hospitalization of not more than one year instead of beginning on the date of discharge from service.

House bill: Proposed new section 4312(e)(1) would require that (1) if the service was for less than 31 days or for the purpose of an examination to determine fitness to enter service, an individual entitled to reemployment must report to the employer for reemployment at the beginning of the first full regularly scheduled working period on the first calendar day following the completion of service and the expiration of eight hours after a time for safe transportation back to his or her residence or as soon as possible after the expiration of the eight-hour period if reporting within that period is impossible or unreasonable through no fault of the individual; (2) if the period of service was 31 days or more but less than 181 days, an individual entitled to reemployment must submit an application to the employer no later than 14 days following completion of service or as soon as possible thereafter if submitting an application within the period is impossible or unreasonable through no fault of the individual; (3) if the period of service was 181 days or more, an individual entitled to reemployment must submit an application no later than 90 days following completion of service or as soon as possible thereafter if submitting an application within the period is impossible or unreasonable through no fault of the individual.

Proposed new section 4312(e)(2) would provide for an extension of the time limits spec-

ified in subsection (e)(1) by up to two years if an individual is hospitalized for, or convalescing from, an injury or illness incurred or aggravated by military service. The two-year period would be extended by the minimum time required to accommodate the circumstance beyond the individual's control which makes reporting within the time limit impossible or unreasonable.

Senate amendment: Proposed new section 4312(e)(1) is substantively identical to the House provision, but without possible extension for events beyond the individual's control if the period of service was 31 days or more.

Proposed new section 4312(e)(2) is substantively identical to the House provision.

Compromise agreement: Section 4312(e)(1) contains the House provision regarding service of less than 31 days or for the purpose of an examination to determine fitness to enter service; the House provision regarding service of 31 days or more but less than 181 days, modified to make specific the time beyond 14 days within which the returning employee must make application for reemployment; and the Senate provision regarding service of more than 180 days.

Section 4312(e)(2) includes the provision relating to an extension of time in the case of an illness or injury.

Section 4312(e)(3) provides that a failure to report or apply within the time limits does not automatically forfeit the person's reemployment rights, but subjects the person to the employer's rules, policies, or practices pertaining to absence from work.

#### DOCUMENTATION UPON RETURN

Current law: No provision.

House bill: Proposed new section 4311(g) would provide that: (1) when reporting for reemployment, an individual, upon request, must provide to the employer documentation to establish the timeliness of the application for reemployment, that the individual did not exceed the applicable time-in-service limitation, and that the character of service was satisfactory; (2) notwithstanding a failure to provide documentation, an employer must reemploy an individual if the failure occurs because such documentation does not exist or is not readily available at the time of the request, with the condition that if, after reemployment, documentation becomes available that establishes that one or more of the eligibility requirements was not met, the employer may terminate the individual's employment and the provision of any rights or benefits afforded the individual prospectively; and (3) it is unlawful for an employer to delay or attempt to defeat a reemployment obligation by demanding documentation that does not then exist or is not then readily available.

Senate amendment: Proposed new section 4312(f) contains documentation requirements substantively identical to those in the House bill except that, if an individual is absent from employment for more than 90 days, the employer may require documentation before making retroactive pension contributions.

Compromise agreement: Section 4312(f) contains the Senate provision.

#### ENTITLEMENT LIMITATIONS

Current law: No provision.

House bill: Proposed new section 4312(i) would provide that entitlement to protection under the reemployment law does not depend on the timing, frequency, duration of an individual's training or service or the nature of that service if the service does not exceed the service limitations and the applicable notice requirements are met.

Senate amendment: Proposed new section 4312(h) is substantively identical to the House provision.

Compromise agreement: Section 4312(h) contains this provision.

#### POSITION TO WHICH ENTITLED UPON REEMPLOYMENT

Current law: Section 4301(a) provides that a returning servicemember who was absent from an employment position (other than a temporary position) for service in the Armed Forces is generally entitled (1) if still qualified to perform the duties of that position, to be restored to that position or a position of like seniority, status, and pay; or (2) if not qualified to perform the duties of that position by reason of a disability sustained during service, to be offered and employed in a position the duties of which he or she is qualified to perform that will provide like seniority, status, and pay, or the nearest approximation consistent with the circumstances of the individual's case.

Section 4301(b)(2) provides that it is the sense of Congress that an individual must be so restored as to give the individual the status that he or she would have enjoyed but for the absence for service in the Armed Forces.

House bill: Proposed new section 4313(a)(1) would provide that an individual whose period of service was for fewer than 91 days must be reemployed promptly (1) in a position that he or she would have attained by remaining continuously employed, unless the employer can prove that the individual is not qualified or capable of becoming qualified with reasonable efforts by the employer, or (2) if not qualified or capable of becoming qualified for the new position, in the same position that he or she left. Proposed new section 4313(a)(2) would provide for a similar pattern of position offerings for an individual whose period of service was for 91 days or more, with the additional option that the employer may offer a position of like seniority, status, and pay to the new position or, as determined by whether the individual is qualified or capable of becoming qualified, the position that the individual left. Proposed new section 4313(a)(4) would provide that a returning servicemember who is not qualified to be employed in the position that he or she would have attained by remaining continuously employed or in the position that he or she left, for any reason other than disability incurred during the period of service, and who cannot become qualified with reasonable efforts by the employer, must be employed promptly in any other position of lesser status and pay the duties of which he or she is qualified to perform, with full seniority.

Senate amendment: Proposed new sections 4313(a) (1), (2), and (4) are similar to the House provisions but would provide that the employer may offer a position of like status and pay if the period of service was for more than 30 days.

Compromise agreement: Section 4313 generally follows the House bill.

#### POSITION TO WHICH ENTITLED IF DISABLED

Current law: Section 4307 requires an employer to make reasonable accommodations to the known physical or mental limitations incurred in the military service of an individual to enable him or her to perform the essential functions of a position, unless the employer can demonstrate that the accommodation would impose an undue hardship on the operation of the business. The terms "reasonable accommodation" and "undue hardship" have the same meanings as are provided in the Americans with Disabilities

Act of 1990 (ADA) (Public Law 101-336; 42 U.S.C. 12101 et seq.).

House bill: Proposed new section 4313(a)(3) would provide that if an individual is disabled because of a disability incurred during, or as a result of, a period of service in the uniformed services and is not qualified to be employed in the position that he or she would have attained if continuously employed or in the position that he or she left for service (even after reasonable efforts by the employer to accommodate the disability), the individual must be reemployed promptly (1) in any other position of similar seniority, status, and pay for which he or she is qualified or would become qualified with reasonable effort by the employer; or (2) in a position which is the nearest approximation consistent with the circumstances of the individual's case.

Senate amendment: Proposed new section 4313(a)(3) is substantively identical to the House provision.

Compromise agreement: Section 4313(a)(3) contains this provision.

#### TWO OR MORE PERSONS ENTITLED TO REEMPLOYMENT IN THE SAME POSITION

Current law: Section 4306 provides that in any case in which two or more individuals are entitled to reemployment in the same position, the individual who left first has the prior right to be reemployed in that position, without prejudice to the reemployment rights of the other individual or individuals.

House bill: Proposed new section 4313(b) would provide that in any case in which two or more individuals are entitled to reemployment in the same position and more than one of them has reported for reemployment, (1) the individual who left the position first has the prior right to be reemployed in that position and (2) any individual not reemployed is entitled to be employed promptly in any other position which is equivalent in seniority, status, and pay for which the individual is qualified or would become qualified with reasonable efforts by the employer or in a position which is the nearest approximation consistent with the circumstances of the individual's case.

Senate amendment: Proposed new section 4313(b) is substantively identical to the House provision.

Compromise agreement: Section 4313(b) contains this provision.

#### REEMPLOYMENT BY THE FEDERAL GOVERNMENT

Current law: Section 4303 provides that any individual who is entitled to reemployment and who was employed, immediately before entering the Armed Forces, by any agency in the executive branch of the Federal Government or by the District of Columbia, must be reemployed by that agency or the successor to its functions, or by the District of Columbia. In cases in which the Director of the Office of Personnel Management (OPM) finds that (1) the agency is no longer in existence and its functions have not been transferred to any other agency, or (2) for any reason it is not feasible for the individual to be reemployed by the agency or the District of Columbia, the Director must determine whether or not there is another position in any other agency in the executive branch or in the government of the District of Columbia for which the individual is qualified and which is either vacant or held by an individual having a temporary appointment, and, if such a position exists, the individual must be offered the position and, if the individual so requests, be employed in the position.

In cases in which it is not possible for an individual who is entitled to reemployment

rights to be restored to a position that he or she left in the legislative branch and who is otherwise eligible to acquire a status for a transfer to a position in the competitive service, the Director of the OPM is required to search for a comparable position in the executive branch for which the individual is qualified and which is either vacant or held by an individual having a temporary appointment, and, if such a position exists, it must be offered to the individual. An individual who was employed in the judicial branch must be restored to the position that the individual held immediately before entering the Armed Forces.

House bill: Proposed new section 4314 is similar to current law but would provide that (1) an individual is entitled to be reemployed according to the priorities set out in new section 4313; (2) the District of Columbia government is not considered part of the executive branch; and (3) in a case in which an employer in the legislative or judicial branch, or the adjutant general of a State in the case of a National Guard technician, determines that it is impossible or unreasonable to reemploy an individual who left to serve in the uniformed services and the individual is otherwise eligible to acquire a status for a transfer to a position in the competitive service, the Director of OPM must identify and offer an alternative position in the executive branch.

Senate amendment: Proposed new section 4314 is similar to the House provision but would require the Director of OPM to ensure that an individual whose reemployment in a Federal Government position—to include the legislative or judicial branch—or as a National Guard technician is impossible or unreasonable is offered an alternative position of employment in the executive branch.

Compromise agreement: Section 4314 contains the Senate provision.

#### REEMPLOYMENT BY CERTAIN FEDERAL AGENCIES

Current law: Although current Chapter 43 does not exempt federal intelligence community agencies—those listed in section 2302(a)(2)(C)(ii) of title 5, United States Code (the Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, and any Executive agency or unit the function of which is determined by the President to be the conduct of foreign intelligence or counterintelligence activities), section 403(c) of title 50, United States Code, provides that the Director of Central Intelligence may, in his or her discretion, terminate the employment of any officer or employee of the Agency whenever he or she deems such a termination necessary or advisable in the interests of the United States. Other intelligence community agencies have similar authority to make employment determinations without outside review.

House bill: No provision.

Senate amendment: Proposed new section 4315 would provide that the head of each agency referred to in section 2302(a)(2)(C)(ii) of title 5 must (1) prescribe procedures for ensuring that veterans' reemployment rights apply to the employees of that agency, and ensure, to the maximum extent practicable, that the procedures for reemployment in that agency are similar to those that apply to other executive branch employees; (2) upon making a determination that the reemployment of an individual is impossible or unreasonable, notify the individual and the Director of OPM of the determination; and (3) on an annual basis, submit to the Senate Select Committee on Intelligence and the

Permanent Select Committee on Intelligence of the House of Representatives a report of the number of individuals whose reemployment with the agency was determined to be impossible or unreasonable during the year preceding the report and the reason for each determination.

Compromise agreement: Section 4315 contains the Senate provision, modified to require the heads of each agency to submit annual reports to the House and Senate Committees on Veterans' Affairs.

#### GENERAL RIGHTS AND BENEFITS

Current law: Section 4301(b)(1) provides that an individual reemployed under the veterans' reemployment rights law (1) shall be considered as having been on furlough or leave of absence during the period of service, (2) must be reemployed without loss of seniority, and (3) is entitled to participate in insurance or other benefits offered by the employer according to rules and practices relating to employees on furlough or leave of absence in effect with the employer at the beginning of the period of service. Section 4301(b)(2) provides that it is the sense of Congress that the reemployed individual should be so reemployed as to give the individual the status that he or she would have enjoyed if employed continuously during the period of active service.

House bill: Proposed new section 4315(a) would, as in current law, provide that upon reemployment under the veterans' reemployment rights law, a person would be entitled to the seniority and other rights and benefits determined by seniority that the individual had on the date of the beginning of uniformed service plus the additional seniority and rights and benefits the individual would have attained if the individual had remained continuously employed.

Proposed new section 4315(b) would provide that (1) an individual who performs service in the uniformed services would be considered to be on a furlough or leave of absence while in the uniformed services and would be entitled, while away, to rights and benefits, not determined by seniority, relating to other employees on furlough or leave of absence which were established, but contract, practice, policy, agreement, or plan effective at the beginning of the period of service or implemented while the individual is performing service; and (2) the individual may be required to pay the employee cost, if any, of any funded benefit continued to the extend other employees on furlough or leave of absence are required to pay.

Senate amendment: Subsections (a) and (b) of proposed new section 4315 are substantively identical to the House provision, except that subsection (b) and (1) provide that in the case of a multiemployer pension plan, liability will be allocated by the plan or if the plan does not provide, liability would be allocated to the last employer before the period of uniformed service; (2) clarify that the servicemember deemed to be on furlough or leave of absence because of uniformed service would not be entitled to any benefits which he or she would not otherwise be entitled if the individual were not on furlough or leave of absence; (3) exempt entitlement for health insurance to care and treatment to the extent the individual would be entitled to the same care and treatment from the Federal Government during uniformed service; (4) preserve policy exclusion of disability insurance for persons in service in excess of 31 days; (5) preserve policy war-claim exclusions; and (6) limit the right of continued insurance coverages to the lesser of (a) 18 months from date of absence, or (b)

the period of service plus period of notice of intent to return.

Compromise agreement: The compromise agreement addressed the seniority and non-seniority benefits in three sections—proposed new sections 4316 (Rights, benefits, and obligations of persons absent from employment for service in a uniformed service), 4317 (Health Plans), and 4318 (Employee pension benefit plans).

Subsection (a) of section 4316 contains the general provisions relating to seniority benefits as set forth in both the House bill and the Senate amendment.

Subsection (b) of section 4316 contains the general provisions relating to non-seniority benefits with a provision, in new subsection 4316(b)(2)(A), that provides that a person otherwise entitled to rights and benefits accorded to other employees on furlough or leave of absence may waive those rights and benefits if the person knowingly provides written notice of intent not to return to employment after military service. Basic waiver law would be applicable to such a knowing waiver.

Subsection 4316(b) contains the Senate provision relating to multiemployer plans, modified to provide that, in the event the last employer is not functioning, liability would be allocated to the plan. Subsection (b) also contains the Senate provision clarifying that a servicemember deemed to be on a leave of absence because of uniformed service is not entitled to any benefits which a person would not be entitled to if he or she was not on a leave of absence.

Although the compromise agreement for subsection 4316(b) does not contain the Senate exemptions relating to duplicative federal coverage, disability insurance, or war clauses, nothing in this law is intended to overrule contract rights of coverage in the areas of health, disability, and life insurance.

#### RETENTION RIGHTS

Current law: Section 4301(b)(1)(A) provides that an individual who was inducted into the Armed Forces and who is then reemployed cannot be discharged from his or her position without cause for one year following reemployment. Subsections (c) and (g) of section 4304 provide that reservists who were ordered to an initial period of active duty for training of not less than twelve consecutive weeks or who were ordered voluntarily or involuntarily to active duty under section 673b of title 10 cannot be discharged from their positions without cause for six months after reemployment.

House bill: Proposed new section 4315(d) would provide that an individual reemployed under this chapter may not be discharged from employment, except for cause (1) if the period of service was more than 180 days, within one year; (2) if the period of service was more than 30 days but less than 181 days, within six months; or (3) if the period of service was less than 31 days, within a period of time equal to the period of service concerned.

Senate amendment: Proposed new section 4316(e) is similar to the House provision except that retention rights would not be provided to individuals serving for less than 31 days.

Compromise agreement: Section 4316(c) contains the Senate provision.

#### ACCRUED LEAVE

Current law: No provision.

House bill: Proposed new section 4315(e) would provide that any individual who is absent from a position (other than a temporary

position) for voluntary or involuntary service in the uniformed services may use, during the period of service, accrued or other leave which the individual could have used if employment had not been interrupted for service.

Senate amendment: Proposed new section 4316(f) is similar to the House provision, except (1) temporary positions are not excluded, and (2) application would be limited to accumulated vacation or annual leave with pay.

Compromise agreement: Section 4316(d) contains the Senate provision, modified to add "similar leave" with pay to the types of leave that could be used.

#### HEALTH PLANS

Current Law: Section 4301(b)(1)(A) provides, among other things, that any reemployed person "shall be entitled to participate in insurance or other benefits offered by the employer pursuant to established rules and practices relating to employees on furlough or leave of absence in effect with the employer at the time such person was inducted into" the Armed Forces.

Section 4301(b)(1)(B) provides that, in the case of employer-offered health insurance, an exclusion or waiting period may not be imposed in connection with coverage of a health or physical condition of a servicemember entitled to participate in that insurance, or a health or physical condition of any other individual who is covered by the insurance by reason of the coverage of the servicemember, if (1) the condition arose before or during the individual's period of training or service in the Armed Forces; (2) an exclusion or waiting period would not have been imposed for the condition during a period of coverage resulting from participation by the individual in the insurance; and (3) the condition of the individual has not been determined by the Secretary of Veterans Affairs to be service-connected.

House bill: Proposed new section 4315(c)(1) would provide that, notwithstanding the general provision that persons in military service are considered to be on furlough or leave of absence and are entitled to non-seniority rights and benefits which other employees on furlough or leave are entitled to, a person would be entitled to continuation of any insurance provided by the employer, including health insurance, for up to 18 months. The person could be required to pay the entire cost of any insurance benefit, except the person would only be responsible for the employee share of any insurance premium when the person was ordered to service of less than 31 days.

Proposed new section 4315(c)(2) is substantively identical to existing section 4301(b)(1)(B) (dealing with reinstatement of health coverage without exclusions or waiting periods).

Senate amendment: Proposed new section 4316(d)(1), dealing with an employee's right to continue health-plan coverage, would apply if the person's health-plan coverage "would otherwise terminate due to an extended absence from employment for purposes of performing service in the uniformed services." A person who elects continuation coverage could be required to pay 102 percent of the full premium associated with such coverage except, in the case of service of less than 31 days, the person could not be required to pay more than the employee share. A person who elected continuation coverage would not be entitled to such coverage (1) to the extent that the person is entitled to care or treatment from the Federal Government, or (2) if the person failed to notify the em-

ployer of the person's intent to return to employment within the periods prescribed in section 4312(e) of the Senate bill.

Proposed new section 4316(d) would provide that, if an individual's coverage under an employer-sponsored health plan is terminated by reason of uniformed service, an exclusion or waiting period may not be imposed in connection with coverage of the servicemember or any other individual covered by the health plan upon reemployment by the employer, if an exclusion or waiting period would not have been imposed had coverage not been terminated. An exception would apply to disabilities that the Secretary of Veterans Affairs has determined to be service-connected.

Compromise agreement: Section 4317 requires the health plan to offer continuation coverage for up to 18 months to persons who have coverage in connection with employment and who are absent from such employment due to military service. The health plan may not require the person to pay more than the employee share for that coverage if the period of military service does not exceed 31 days. If the period of service exceeds 31 days, the employee may be required to pay not more than 102 percent of the full premium under the plan.

The compromise also includes provisions pertaining to allocation of liability in the case of a multiemployer plan and limiting the obligation to continue coverage to the day after the date on which the person fails to apply for or return to a position of employment.

With respect to reinstatement of health plan coverage following a period of service, the compromise generally follows the Senate provision, with a clarification that all persons who are covered by the plan by reason of the reinstatement of the coverage of the person who is reemployed would also have coverage reinstated without the imposition of an exclusion or waiting period.

#### EMPLOYEE PENSION BENEFIT PLANS

Current law: Section 4321(b)(1)(A) provides that upon reemployment after military service, a person shall be restored without loss of seniority. In *Alabama Power Co. v. Davis*, 431 U.S. 581 (1977), the Supreme Court held that pension benefits were protected under the Act as "prerequisites of seniority" because the real nature of the benefit is a reward for length of service.

House bill: Proposed new section 4316 would clarify the protection provided pension benefits under the Act. Section 4316(a)(1)(A) would define the pension plans entitled to protection under the Act as any plan which falls within the definition of an employee pension benefit plan described in section 3(2) of the Employee Retirement Income Security Act of 1974, 29 U.S.C. s 1002(2), as well as any federal, state or local government plan.

This definition would include profit-sharing plans to the extent that such plans provide retirement benefits to participants.

Sections 4316(a)(2) (A) and (B) would make explicit the rights of reemployed servicemembers in their pension plans, such as no break in employment service would be considered to have occurred, no forfeiture of benefits already accrued would be allowed, and there would be no necessity to requalify for participation in the pension plan by reason of absence for military service.

Section 4316(b)(1)(A) would provide a pension plan with a claim against the employer for amounts that may be required to fund obligations arising under this section. In the case of a multiemployer plan, this provision

would enable the plan to pursue its existing remedies under section 515 of the Employee Retirement Income Security Act, 29 U.S.C. 1145, for failure to make the required contributions, in the event that neither the plan nor the collective bargaining agreement pursuant to which the plan is maintained provides for any such funding obligations.

Section 4316(b)(1)(B) would provide that a returning veteran is entitled to have earnings and any employer contribution which is determined without reference to the number of, or compensation of, plan participants credited to such person's pension account to the same extent as they would have been credited had such person remained continuously employed instead of serving in the uniformed service. With regard to forfeitures, this section would permit, but not require, the allocation of forfeitures to such person's pension account.

Section 4316(b)(2) would provide that, if the plan is contributory (i.e., provides for employee contributions as well as employer contributions), the portion of such accrued benefit that is derivable from employee contributions would be required to be calculated only to the extent that the reemployed serviceperson makes the required employee contribution to the plan. No interest or penalty would be charged on the employee contribution, nor would the employee be credited with interest that would have been earned on such contribution. However, if a reemployed serviceperson has withdrawn his or her pension plan monies, in whole or in part, prior to entering military service, such person must be allowed to voluntarily repay the withdrawn amounts (together with the interest that would have been earned had the monies not been withdrawn) and receive the appropriate credit in the pension plan. The period of repayment would be subject to negotiation between the employer and employee.

Section 4316(b)(3) would provide that if there is a need to use imputed earnings of an employee to calculate pension benefits during a period when in fact there were no earnings because of the absence in military service, the employee's preservice rate of pay will be used or if no fixed rate was in effect, the average earnings of the 12 months immediately preceding military service shall be used.

Section 4316(c) would require that, where military service might result in additional pension liability, the administrator of a multiemployer pension plan be notified that a contributing employer has reemployed a veteran under chapter 43. Such a notification would provide the plan the opportunity to take whatever steps may be required to protect its interests. Unlike administrators of single-employer pension plans, administrators of multiemployer plans are generally not in a position to be aware of the fact that a contributing employer has reemployed a person who may have a pension claim arising from a period of military service.

Senate amendment: Proposed new section 4317 is similar to the House provisions with some changes (described below).

Section 4317(b)(1) would provide, in the case of a multiemployer pension plan, if the plan does not have a method of allocating liability for a returning servicemember, the last employer employing the person prior to military service shall be liable.

Section 4317(b)(2) would provide, with reference to the repayment of employee contributions, for the repayment period to be no shorter than the length of absence.

Section 4317(b)(4) would not allow earnings on contributions to a plan until the con-

tributions are made and would not allow the reallocation of already allocated forfeitures to a returning servicemember's account.

Section 4317(d) would provide that no action need be taken which would cause the plan, participants, or the employer to suffer adverse tax or other consequences under the Internal Revenue Code.

Compromise Agreement: Section 4318 generally follows the House bill with several modifications.

The first modification is that, in a multi-employer context, section 4318(b)(1)(A) requires allocation of liability first to the plan in whatever manner the plan provides. If there is no provision made, the last employer of such person before military service would be responsible and, if there is no longer a functional last employer, the liability would revert to the plan.

The next modification is the section 4318(b)(2) now provides that repayment of employee contributions can be made over a period of three times the period of military service, not to exceed five years.

Under section 4318(b)(3), for purposes of computing an employer's liability or an employee's contributions to the extent that they are based on an employee's earnings, the same "reasonable certainty" analysis as is applicable to pay rate cases would be applicable here.

It is the Committees' intent that earnings or losses on contributions made after return from military service not be credited until after the contributions are made and only prospectively and there is no requirement to reallocate already allocated forfeitures to a returning servicemember's account.

The Committees also intend that no pension rights accrue for a period of military service if the servicemember elects not to be reemployed, but the person's vested interest prior to entering military service would remain intact.

#### ASSISTANCE IN ASSERTING CLAIMS

Current law: Under section 4305, the Secretary of Labor, through the Office of Veterans' Reemployment Rights, is required (1) to render aid in the replacement in their former positions or reemployment of individuals who have satisfactorily completed a period of active duty in the Armed Forces or the Public Health Service and (2) to use existing Federal and State agencies engaged in similar or related activities and the assistance of volunteers.

House bill: Proposed new section 4321 is similar to current law, except that the Secretary would be authorized, rather than required, to use existing Federal and State agencies engaged in similar or related activities and the assistance of volunteers.

Proposed new section 4322 would specify (1) procedures for individuals to file reemployment complaints with the Secretary and (2) that the Secretary is authorized to conduct investigations and make efforts to obtain voluntary compliance from employers.

Senate amendment: Proposed new section 4321 is similar to the House provisions and in addition, would require that in cases in which the efforts of the Secretary to obtain voluntary compliance are unsuccessful, the Secretary must notify the individual who submitted the complaint of (1) the results of the investigation, and (2) the complainant's entitlement to request referral of the claim to the Office of the Special Counsel or the United States Attorney, depending on whether the employer is the Federal government or a State or private employer.

Compromise agreement: Section 4321 and 4322 contain the Senate provisions.

#### ENFORCEMENT

##### STATE OR PRIVATE EMPLOYER

Current law: Under section 4302, in the case of a private or State employer who fails or refuses to comply with the reemployment laws, (1) the district court of the United States for the district in which the employer maintains a place of business, exercises authority, or carries out its function, has the power, upon the filing of a motion, petition, or other appropriate pleading by the individual entitled to the benefits or the reemployment laws, to require the employer to comply with the reemployment law and to compensate the individual for any loss of wages or benefits suffered by reason of the employer's unlawful action; (2) the United States attorney or comparable official, if reasonably satisfied that an individual who applies for representation is entitled to the reemployment benefits, must appear and act as an attorney for the individual in the amicable adjustment of the claim or in the filing and prosecution of a complaint; (3) no fees or court costs may be taxed against an individual who applies for such benefits; (4) only the employer may be deemed a necessary party respondent; and (5) no State statute of limitations may apply to any proceedings.

House bill: Proposed new section 4322 is similar to current law except that it would provide that (1) if the Secretary of Labor, after investigation, is reasonably satisfied that a violation has occurred and efforts to obtain voluntary compliance are not successful, and if the claimant requests referral for litigation, the Secretary must refer the case to the Attorney General; (2) the Attorney General, if reasonably satisfied that the individual requesting representation is entitled to the rights or benefits sought, may appear and act as attorney for the claimant in the filing and prosecution of a complaint; (3) an individual may be represented before the District Court by a counsel of choice; (4) the court may award an individual who prevails a reasonable attorney's fee, expert witness fee, and other litigation expenses; (5) the court may use its full equity powers to vindicate rights under the Act; (6) a reemployment rights claim may only be initiated by an individual claiming such rights or benefits, not by an employer, prospective employer, or other entity with obligations under the reemployment law; (7) a State will be subject to the same remedies, including prejudgment interest, as may be imposed upon any private employer; and (8) if the District Court determines that the employer's failure to comply with the provisions of chapter 43 were willful, the court may require the State or private employer to pay, in addition to the compensation determined to be paid the person, an amount equal to that compensation as liquidated damages.

Senate amendment: Proposed new section 4322 is substantively identical to the House provision.

Compromise agreement: Section 4323 contains these provisions.

##### FEDERAL GOVERNMENT AS EMPLOYER

Current law: Section 4303(a) provides that the Director of the Office of Personnel Management is authorized and directed when the Director finds, upon appeal of the individual concerned, that any agency in the executive branch or the government of the District of Columbia has failed or refuses to comply with the provisions of the law relating to reemployment by the executive branch or the government of the District of Columbia, to issue an order requiring compliance and to compensate the individual for any loss of salary or wages suffered by reason of failure to

comply, less any amounts received by the individual through other employment, unemployment compensation, or readjustment allowances.

House bill: Proposed new section 4322(e), which applies with respect to the Federal Government as employer, would provide that (1) if the Secretary, after investigation, is reasonably satisfied that a violation has occurred with respect to the Federal Government as employer and efforts to obtain voluntary compliance are not successful, and if the claimant requests that the claim be referred for litigation before the Merit Systems Protection Board (MSPB), the Secretary would be required to refer the case to the Office of the Special Counsel; (2) if the Special Counsel is reasonably satisfied that the individual requesting representation is entitled to the rights or benefits sought, the Special Counsel would be required to appear and act as an attorney for the claimant in filing and pursuing an appeal to the MSPB; (3) if the Special Counsel were to decline to represent an individual after receiving a referral from the Secretary or if an individual were to decide not to apply to the Secretary for assistance or to use the Special Counsel for representation, the individual may be represented before the MSPB by counsel of the individual's choice; (4) if the MSPB concludes that a Federal Government employer has failed or refused to comply with the reemployment laws or that the Director of OPM has not met his or her obligation under the reemployment law, it would require the employing agency or the Director to comply with the law and to compensate the individual for any loss of wages or benefits suffered by reason of the unlawful action; and (5) a claimant would be able to petition the United States Court of Appeals for the Federal Circuit to review a decision of the MSPB in which the claimant is denied the relief sought, but would not be represented by the Secretary or the Special Counsel before the Court of Appeals or the Supreme Court.

Senate bill: Proposed new section 4323 is substantively identical to the House provision but would provide that (1) the individual would be able to be represented before the MSPB by a representative of choice; (2) the MSPB would be able to award the individual reasonable attorney fees, expert witness fees, and other litigation expenses; and (3) an individual would be able to be represented by the Special Counsel in an action for a review of a decision issued by the MSPB, unless the individual was not represented by the Special Counsel before the MSPB regarding this decision.

Compromise agreement: Section 4324 contains the Senate provision.

#### FEDERAL INTELLIGENCE AGENCY AS EMPLOYER

Current law: No provision.

House bill: No provision.

Senate amendment: Proposed new section 4324 would provide that any individual employed prior to service in the uniformed services by a federal intelligence agency—those listed in section 2302(a)(2)(C)(ii) of Title 5 (the Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, or any Executive agency or unit the function of which is determined by the President to be the conduct of foreign intelligence or counterintelligence activities)—would be able to submit a complaint regarding reemployment to the Inspector General of the agency in question, who would be required to investigate and resolve the claim pursuant to procedures prescribed by the head of the agency, which must be, to the maximum ex-

tent practicable, similar to the provisions relating to the investigation and resolution of a claim by the Secretary of Labor.

Compromise agreement: Section 4325 contains the Senate provision.

#### SUBPOENAS

Current law: No provision.

House bill: Subsections (b) and (c) of proposed new section 4323 would provide that the Secretary may (1) require by subpoena the attendance and testimony of witnesses and the production of documents relating to any matter under investigation and (2) in the case of disobedience of a subpoena, may request that the Attorney General apply to a district court of jurisdiction for an order enforcing the subpoena. Subpoena authority would not apply in the case where the employer is the Federal Government.

Senate amendment: Subsections (b) and (c) of proposed new section 4325 are substantively identical to the House provisions, but would not apply the subpoena authority to the legislative and judicial branches of the United States.

Compromise agreement: Section 4326 contains the Senate provision.

#### REGULATIONS

Current law: Under section 4303(a), the Director of the Office of Personnel Management (OPM) is authorized and directed to issue regulations relating to the reemployment in the executive branch or in the government of the District of Columbia.

House bill: Proposed new section 4331 would provide that (1) the Secretary of Labor, in consultation with the Secretary of Defense, would be authorized to prescribe regulations with regard to States, local governments, and private employers; (2) the Director of OPM, in consultation with the Secretaries of Labor and Defense, would be authorized to prescribe regulations with regard to the Federal Government as employer, and any such regulations would have to be consistent with regulations pertaining to States and private employers, except that employees of the Federal government may be given greater or additional rights; and (3) regulations may be prescribed by the Merit Systems Protection Board and by the Office of Special Counsel to carry out their responsibilities.

Senate amendment: Proposed new section 4331 is substantively identical to the House provision but (1) would not authorize the Director of OPM to prescribe regulations giving Federal employees greater rights than employees of States and private employers, and (2) would authorize intelligence community agencies to prescribe regulations.

Compromise agreement: Section 4331 contains the House provision, modified to authorize intelligence community agencies to prescribe regulations.

#### REPORTS

Current law: No provision.

House bill: Proposed new section 4332 would require the Secretary of Labor, after consultation with the Attorney General and Special Counsel, to provide Congress no later than February 1, 1995, and each February 1 annually thereafter, a report concerning actions taken under chapter 43 during the prior fiscal year, including (1) the number of cases reviewed by the Department of Labor; (2) the number of cases referred to the Attorney General or the Special Counsel; (3) the number of complaints filed by the Attorney General; (4) the nature and status of each case; (5) an indication of whether there are any apparent patterns of violation of the provisions of this chapter; and (6) recommendations for

administrative or legislative action that the Secretary, Attorney General, or the Special Counsel considers necessary for the effective implementation of this chapter.

Senate amendment: Section 2(c) would require the Secretary of Labor, the Attorney General, and the Special Counsel to submit a report to Congress, not later than one year after the date of enactment, relating to the implementation of chapter 43.

Compromise agreement: Section 4332 contains the House provision, modified to provide that Congress be provided with an annual report on February 1 of each year for five years, beginning with 1996.

#### OUTREACH

Current law: No provision.

House bill: No provision.

Senate amendment: Proposed new section 4332 would require that the Secretaries of Labor, Defense, and Veterans Affairs to take appropriate actions to inform individuals entitled to reemployment rights and benefits and employers of the reemployment rights, benefits, and obligations.

Compromise agreement: Section 4333 contains the Senate provision.

#### EXEMPTION FROM MINIMUM SERVICE REQUIREMENTS

Current law: Section 5303a(b)(1) of title 38 generally provides that an individual who is discharged or released from active duty before completing the shorter of 24 months of continuous active duty or the full period for which called or ordered to active duty is not eligible by reason of that period of active duty for any benefit under title 38 or any other law administered by the VA.

House bill: Section 3 would exclude reemployment benefits under chapter 43 of title 38 from the minimum service requirements.

Senate amendment: Section 3 is identical to the House provision.

Compromise agreement: Section 3 contains this provision.

#### THRIFT SAVINGS PLAN

Current law: Under current law, Federal and Postal employees who return from active military service have certain reemployment and restoration rights, including the rights to obtain retirement credit under the Civil Service Retirement System (CSRS) or under the basic annuity provisions of the Federal Employees' Retirement System (FERS) for the period of military service. However, Federal and Postal employees who separate from service or who enter leave-without-pay status to perform military service cease to be eligible to make contributions to the Thrift Savings Plan (TSP) or to have their employing agencies contribute to their accounts during their period of military service. The TSP is a deferred compensation arrangement similar to private sector 401(k) plans. The structure of the TSP is based on the premise that contributions by employees must be deferred from current civilian pay in order for an employee to enjoy the tax benefits of deferred income, which are an integral part of the TSP.

House bill: Section 4 would amend title 5, United States Code, principally by adding a proposed new section 8432b, so as to allow Federal and Postal employees who separate or enter leave-without-pay status to perform military service to make up contributions to the Thrift Savings Plan (TSP) missed because of military service. The maximum amount an employee would be allowed to contribute would be equal to the amount an employee would have been eligible to contribute, subject to the applicable statutory maximums, reduced by any contributions actually made during the period of military

service (since these employees may use military or annual leave to cover periods of military service and since employees on military and annual leave continue to receive civilian basic pay, contributions continue to be made to the Thrift Savings Fund for such periods.)

For purposes of any computation under this section, an employee would be, with respect to the period of military service, considered to have been paid at the rate which the employing agency determines would have been payable over such period had such employee remained continuously employed in the position which such employee last held before separating or entering leave-without-pay status to perform military service.

An employing agency would be required to give an employee up to two times, and may give an employee up to four times, the length of his or her military service to make up TSP contributions, although an employee may choose to make up contributions sooner. Make-up contributions would have to be made at the same time, in the same manner, and in addition to, contributions the employee is otherwise eligible to make.

If an employee is entitled to agency matching contributions based on make-up contributions, the agency would be required to make such contributions in the same manner as regular matching contributions. Agency matching contributions attributable to employee make-up contributions would be in addition to any matching contributions to which the employee is already entitled.

Upon reemployment or restoration, the employing agency would be required to pay lost earnings on contributions made by the employee as well as any agency automatic contributions to which the employee would have been entitled during the make-up period.

The period of military service would be counted towards service required for vesting in TSP agency automatic contributions, and any separation to perform military service would not cause forfeiture of such contributions if the employee is subsequently reemployed or restored pursuant to chapter 43 of title 38. Persons who received involuntary TSP payments as a result of their separation to perform military service would have the right to restore those payments to the plan.

Employees who have been restored or reemployed before the date of enactment of this Act would be entitled to make up contributions for the period beginning with their absence from civilian service and continuing through either the date of enactment or the first TSP open season from which the employee is eligible, whichever occurs first.

An employee would be allowed to elect, for purposes of transferring TSP account balances to eligible retirement plans or establishing nonforfeiture of account balances of less than \$3,500, to have the employee's separation treated as if it had never occurred. An election for these purposes would have to be made within such period of time after restoration or reemployment, as the case may be, and otherwise in such manner as the Executive Director of the Federal Retirement Thrift Investment Board prescribes.

Senate amendment: Section 6 is substantively identical to the House provisions but does not include requiring the employing agency to pay lost earnings on retroactive contributions.

Compromise agreement: Section 4 follows the House bill with a modification giving the employing agency the discretion to pay lost earnings on retroactive contributions.

#### REVISION OF FEDERAL CIVIL SERVICE RETIREMENT BENEFIT PROGRAM FOR RESERVISTS

Current law: Some Federal workers—those enrolled in Federal Employees' Retirement System (FERS)—who interrupt their civilian employment to serve on active duty in the military may be required to pay more to receive Federal civilian retirement credit for that service than they would have had to pay had they not gone on active duty.

In order to receive Federal civilian retirement credit for military service, Federal employees who are enrolled in FERS are required to pay 3 percent of their military pay. However, these employees pay only 0.8 percent of the civilian wages to receive retirement credit for their civilian Federal employment. As a result, when 3 percent of such an individual's military pay exceeds 0.8 percent of that individual's civilian pay, the individual would pay a larger dollar amount to receive retirement credit for military time than the individual would have paid had he or she remained in the civilian job.

House bill: No Provision.

Senate amendment: Section 5 would amend sections 8334(j)(1) and 8422(e)(1) of title 5, United States Code, to provide that in the case of individuals enrolled in FERS (or in the Civil Service Retirement System, which does not have this anomaly) who have their Federal civilian service interrupted by military service and who are reemployed under chapter 43 of title 38 on or after August 1, 1990, the deposit into their retirement benefit program may not exceed the amount that would have been deducted and withheld from basic pay during civilian service if the employee had remained in continuous civilian service.

Section 5 also would amend sections 8331(13) and 8401(31) of title 5, to expand the definition of "military service" for both CSRS and FERS, respectively, by adding to the meaning full-time National Guard duty (as that term is defined in section 101(d) of title 10) if that service interrupts creditable civilian service and is followed by reemployment in accordance with chapter 43 of title 38 that occurs on or after August 1, 1990.

Compromise agreement: Section 5 includes this provision.

#### INCREASE IN AMOUNT OF LOAN GUARANTY FOR THE PURCHASE OR CONSTRUCTION OF HOMES

Current law: Section 3703(a)(1) of title 38 sets the maximum amount of a VA loan guaranty for loans for the purchase or construction of homes at \$46,000, an amount that would support a no-downpayment, VA-guaranteed home loan of \$184,000.

House bill: No provision in H.R. 995. Section 1 of H.R. 949, as passed by the House on September 21, 1993, would amend section 3703(a)(1) to increase the maximum loan guaranty to \$50,750 and thus increase the maximum loan guaranty to \$50,750 and thus increase the no-downpayment VA-guaranteed home loans to \$203,000.

Senate amendment: Section 10 is substantively identical to section 1 of H.R. 949.

Compromise agreement: Section 7 includes this provision.

#### TRANSITION RULES AND EFFECTIVE DATES

Current law: No provision.

House bill: Section 6 of H.R. 995 would provide that (1) except as provided elsewhere, the amendments made by this Act would be effective with respect to reemployment initiated on or after the first day after the 60-day period beginning on the date of enactment, (2) the reemployment provisions contained in chapter 43 in effect on the day before the date of enactment would continue to apply

to reemployment initiated before the end of the 60-day period; (3) for the purposes of the five-year service limitation, military service performed prior to the date of enactment would be considered only to the extent that period of military service would have counted toward the service limitations under current law; (4) the anti-discrimination provisions that are added by amendments to this Act would be effective on the date of enactment; (5) the insurance provision would be effective on the date of enactment, except that an individual on active duty on the date of enactment would be able to elect to reinstate or continue insurance coverage for the remaining portion of the 18 months that began on the date of separation from civilian employment; and (6) the disability provisions would be effective with respect to reemployment initiated on or after August 1, 1990.

The provisions of section 4311(a) defining the actions protected from discrimination or reprisal and the standard and burden of proof set forth in section 4311(b) are not additions to the Act but are a codification of existing law.

Senate amendment: Section 9 is substantively identical to the House provision with the additional provision that the provisions of proposed section 4325 regarding investigations and subpoenas would become effective on the date of enactment and apply to any matter pending with the Secretary of Labor.

Compromise agreement: Section 8 contains the Senate provision. It also contains a provision that the notice of intent not to return found in section 4316(b)(2) applies only to furlough or leave of absence rights and benefits under that section and does not apply to or waive any other right or benefit under the Act.

The compromise also provides that nothing in this Act would relieve an employer or an obligation to provide contributions to a pension plan (or provide pension benefits) which is required by the provisions of the existing chapter 43 of title 38, United States Code, in effect on the day before this Act takes effect. Any plan which is not in compliance with the requirements of the law would have two years from the date of enactment to come into compliance with the law.

Mr. BOREN. I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion. The motion was agreed to.

#### AUTHORIZATION OF THE TAKING OF A PHOTOGRAPH OF THE SENATE CHAMBER

Mr. BOREN. Madam President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 272, a resolution authorizing the taking of a photograph in the Senate Chamber, introduced earlier today by Senators MITCHELL and DOLE; that the resolution be agreed to; that the motion to reconsider be laid on the table, and any statements thereon appear in the RECORD at the appropriate place as though read on the floor.

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

So the resolution was agreed to, as follows:

S. RES. 272

Resolved, That paragraph 1 of Rule IV of the Rules for the Regulation of the Senate

Wing of the United States Capitol (prohibiting the taking of pictures in the Senate Chamber) be temporarily suspended for the sole and specific purpose of permitting an official photograph to be taken of the United States Senate in actual session on a date and time to be announced by the Majority Leader after consultation with the Republican Leader.

SEC. 2. The Sergeant at Arms of the Senate is authorized and directed to make the necessary arrangements therefor, which arrangements shall provide for a minimum of disruption to Senate proceedings.

#### ORDERS FOR THURSDAY, SEPTEMBER 29, 1994

Mr. BOREN. Madam President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 o'clock a.m., Thursday, September 29; that the following the prayer the Journal of proceedings be deemed approved to date, 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. 4556, the Department of Transportation appropriations bill.

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

#### RECESS UNTIL TOMORROW AT 10 A.M.

Mr. BOREN. Madam President, if there is no further business to come before the Senate today—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 7:59 p.m., recessed until Thursday, September 29, 1994, at 10 a.m.

#### NOMINATIONS

Executive nominations received by the Senate September 28, 1994:

##### DEPARTMENT OF STATE

PHILIP C. WILCOX, JR., OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS COORDINATOR FOR COUNTER TERRORISM.

##### U.S. SENTENCING COMMISSION

RICHARD P. CONABOY, OF PENNSYLVANIA, TO BE A MEMBER OF THE U.S. SENTENCING COMMISSION FOR A TERM EXPIRING OCTOBER 31, 1999, VICE WILLIAM W. WILKINS, JR., TERM EXPIRED.

RICHARD P. CONABOY, OF PENNSYLVANIA, TO BE CHAIRMAN OF THE U.S. SENTENCING COMMISSION, VICE WILLIAM W. WILKINS, JR.

DEANELL REECE TACHA, OF KANSAS, TO BE A MEMBER OF THE U.S. SENTENCING COMMISSION FOR A TERM EXPIRING OCTOBER 31, 1997, VICE GEORGE E. MACKINNON, TERM EXPIRED.

WAYNE ANTHONY BUDD, OF MASSACHUSETTS, TO BE A MEMBER OF THE U.S. SENTENCING COMMISSION FOR A TERM EXPIRING OCTOBER 31, 1999, VICE ILENE H. NAGEL, RESIGNED.

MICHAEL GOLDSMITH, OF UTAH, TO BE A MEMBER OF THE U.S. SENTENCING COMMISSION FOR A TERM EXPIRING OCTOBER 31, 1997, VICE HELEN G. CORROTHERS, TERM EXPIRED.

##### IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE AS-

SIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

##### To be lieutenant general

MAJ. GEN. OTTO J. GUENTHER ~~xxx-xx-xx~~

#### CONFIRMATIONS

Executive nominations confirmed by the Senate September 28, 1994:

##### DEPARTMENT OF THE TREASURY

FRANK N. NEWMAN, OF CALIFORNIA, TO BE DEPUTY SECRETARY OF THE TREASURY.

EDWARD S. KNIGHT, OF TEXAS, TO BE GENERAL COUNSEL FOR THE DEPARTMENT OF THE TREASURY.

##### DEPARTMENT OF STATE

KENNETH SPENCER YALOWITZ, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BE REPUBLIC OF BELARUS.

ALFRED H. MOSES, OF VIRGINIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ROMANIA.

CHARLES E. REDMAN, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE FEDERAL REPUBLIC OF GERMANY.

MARC GROSSMAN, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF TURKEY.

IVAN SELIN, OF THE DISTRICT OF COLUMBIA, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE THIRTY-EIGHTH SESSION OF THE GENERAL CONFERENCE OF THE INTERNATIONAL ATOMIC ENERGY AGENCY.

NELSON F. SIEVERING, JR., OF MARYLAND, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE THIRTY-EIGHTH SESSION OF THE GENERAL CONFERENCE OF THE INTERNATIONAL ATOMIC ENERGY AGENCY.

JOHN B. RITCH III, OF THE DISTRICT OF COLUMBIA, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE THIRTY-EIGHTH SESSION OF THE GENERAL CONFERENCE OF THE INTERNATIONAL ATOMIC ENERGY AGENCY.

##### DEPARTMENT OF VETERANS AFFAIRS

KENNETH W. KIZER, OF CALIFORNIA, TO BE UNDER SECRETARY FOR HEALTH OF THE DEPARTMENT OF VETERANS AFFAIRS 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.

##### THE JUDICIARY

WILLIAM C. BRYSON, OF MARYLAND, TO BE U.S. CIRCUIT JUDGE FOR THE FEDERAL CIRCUIT.

SARAH S. VANCE, OF LOUISIANA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF LOUISIANA.

SALVADOR E. CASELLAS, OF PUERTO RICO, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF PUERTO RICO.

DANIEL R. DOMINGUEZ, OF PUERTO RICO, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF PUERTO RICO.

STANWOOD R. DUVAL, JR., OF LOUISIANA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF LOUISIANA.

FREDERIC BLOCK, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF NEW YORK.

JOHN GLEESON, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF NEW YORK.

ALLYNE R. ROSS, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF NEW YORK.

SHIRA A. SCHEINDLIN, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK.

ROBERT N. CHATIGNY, OF CONNECTICUT, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF CONNECTICUT.

##### DEPARTMENT OF JUSTICE

JOHN MICHAEL BRADFORD, OF TEXAS, TO BE U.S. ATTORNEY FOR THE EASTERN DISTRICT OF TEXAS FOR THE TERM OF 4 YEARS.

RONALD JOSEPH BOUDREAU, OF LOUISIANA, TO BE U.S. MARSHAL FOR THE MIDDLE DISTRICT OF LOUISIANA FOR THE TERM OF 4 YEARS.

NORRIS BATISTE, JR., OF TEXAS, TO BE U.S. MARSHAL FOR THE EASTERN DISTRICT OF TEXAS FOR THE TERM OF 4 YEARS.

JOHN DAVID CREWS, JR., OF MISSISSIPPI, TO BE U.S. MARSHAL FOR THE NORTHERN DISTRICT OF MISSISSIPPI FOR THE TERM OF 4 YEARS.

WALTER D. SOKOLOWSKI, OF PENNSYLVANIA, TO BE U.S. MARSHAL FOR THE MIDDLE DISTRICT OF PENNSYLVANIA FOR THE TERM OF 4 YEARS.

EDWARD JOSEPH KELLY, JR., OF NEW YORK, TO BE U.S. MARSHAL FOR THE NORTHERN DISTRICT OF NEW YORK FOR THE TERM OF 4 YEARS.

DELISSA A. RIDGWAY, OF THE DISTRICT OF COLUMBIA, TO BE CHAIRMAN OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES FOR A TERM EXPIRING SEPTEMBER 30, 1997.

JOHN R. LACEY, OF CONNECTICUT, TO BE A MEMBER OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES FOR THE TERM EXPIRING SEPTEMBER 30, 1995.

MICHAEL JOHNSTON GAINES, OF ARKANSAS, TO BE A COMMISSIONER OF THE U.S. PAROLE COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING NOVEMBER 1, 1997.

AILEEN CATHERINE ADAMS, OF CALIFORNIA, TO BE DIRECTOR OF THE OFFICE FOR VICTIMS OF CRIME.

##### ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

THOMASINA V. ROGERS, OF MARYLAND, TO BE CHAIRMAN OF THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES FOR THE TERM OF 5 YEARS.

##### IN THE AIR FORCE

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 ~~xxx-xx-xx~~

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:

##### REGULAR AIR FORCE

##### To be major general

BRIG. GEN. JERROLD P. ALLEN ~~xxx-xx-xx~~  
 BRIG. GEN. ALLEN D. BUNGER ~~xxx-xx-xx~~  
 BRIG. GEN. STEWART E. CRANSTON ~~xxx-xx-xx~~  
 BRIG. GEN. ROBERT S. DICKMAN ~~xxx-xx-xx~~  
 BRIG. GEN. WILLIAM J. DONAHUE ~~xxx-xx-xx~~  
 BRIG. GEN. ROBERT W. DREWES ~~xxx-xx-xx~~  
 BRIG. GEN. PATRICK K. GAMBLE ~~xxx-xx-xx~~  
 BRIG. GEN. FRANCIS C. GIDEON, JR. ~~xxx-xx-xx~~  
 BRIG. GEN. EDWARD F. GRILLO, JR. ~~xxx-xx-xx~~  
 BRIG. GEN. JOHN W. HANDY ~~xxx-xx-xx~~  
 BRIG. GEN. CHARLES R. HOFFLEBOWER ~~xxx-xx-xx~~  
 BRIG. GEN. HENRY M. HOBGOOD ~~xxx-xx-xx~~  
 BRIG. GEN. HAL M. HORNBERG ~~xxx-xx-xx~~  
 BRIG. GEN. NORMAND G. LEZY ~~xxx-xx-xx~~  
 BRIG. GEN. DONALD E. LORANGER, JR. ~~xxx-xx-xx~~  
 BRIG. GEN. JOHN M. MCBROOM ~~xxx-xx-xx~~  
 BRIG. GEN. GEORGE K. MUELLNER ~~xxx-xx-xx~~  
 BRIG. GEN. ROBERT F. RAGGIO ~~xxx-xx-xx~~  
 BRIG. GEN. JOHN B. SAMS, JR. ~~xxx-xx-xx~~  
 BRIG. GEN. MICHAEL C. SHORT ~~xxx-xx-xx~~  
 BRIG. GEN. RONALD H. SMITH ~~xxx-xx-xx~~

##### IN THE ARMY

THE U.S. 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 ~~xxx-xx-xx~~

##### To be brigadier general

COL. DARREL P. BAKER ~~xxx-xx-xx~~

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 ~~xxx-xx-xx~~

WAYNE D. MARTY ~~xxx-xx-xx~~

ARMY NOMINATIONS BEGINNING GEORGE D. BAXTER, AND ENDING MICHAEL H. TAYLOR, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 5, 1993.

ARMY NOMINATIONS BEGINNING GEORGE R. ALLEN, AND ENDING THOMAS E. WOLFPORD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 8, 1994.

ARMY NOMINATIONS BEGINNING RICHARD W. ATTWOOD, AND ENDING RUTH A. WILCOX, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 27, 1994.

##### IN THE COAST GUARD

COAST GUARD NOMINATIONS BEGINNING ROBERT W. VAIL, AND ENDING PHILIP M. SANDERS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON AUGUST 9, 1994.

COAST GUARD NOMINATIONS BEGINNING GORDON G. PICHE, AND ENDING ERNEST R. RIUTTA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON AUGUST 22, 1994.

COAST GUARD NOMINATIONS BEGINNING WILLIAM C. PARADISE, AND ENDING RONALD W. BRANCH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 12, 1994.

COAST GUARD NOMINATIONS BEGINNING THOMAS J. HAAS, AND ENDING ROBERT C. AYER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 12, 1994.

IN THE NAVY

NAVY NOMINATIONS BEGINNING THOR DAVIS AAKRE, AND ENDING ALLAN KAY ZWEIFEL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 19, 1994.

The message also announced that the President approved the nomination of William C. Paradise to the position of Commandant of the Coast Guard. The President also approved the nomination of Ronald W. Branch to the position of Commandant of the Coast Guard. The President also approved the nomination of Thomas J. Haas to the position of Commandant of the Coast Guard. The President also approved the nomination of Robert C. Ayer to the position of Commandant of the Coast Guard.

The message also announced that the President approved the nomination of Thor Davis Aakre to the position of Commandant of the Coast Guard. The President also approved the nomination of Allan Kay Zweifel to the position of Commandant of the Coast Guard. The President also approved the nomination of William C. Paradise to the position of Commandant of the Coast Guard. The President also approved the nomination of Ronald W. Branch to the position of Commandant of the Coast Guard.

The message also announced that the President approved the nomination of Thor Davis Aakre to the position of Commandant of the Coast Guard. The President also approved the nomination of Allan Kay Zweifel to the position of Commandant of the Coast Guard. The President also approved the nomination of William C. Paradise to the position of Commandant of the Coast Guard. The President also approved the nomination of Ronald W. Branch to the position of Commandant of the Coast Guard.

JOBS BILL

The message also announced that the President approved the nomination of Thor Davis Aakre to the position of Commandant of the Coast Guard. The President also approved the nomination of Allan Kay Zweifel to the position of Commandant of the Coast Guard. The President also approved the nomination of William C. Paradise to the position of Commandant of the Coast Guard. The President also approved the nomination of Ronald W. Branch to the position of Commandant of the Coast Guard.

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THE JOURNAL

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## HOUSE OF REPRESENTATIVES—Wednesday, September 28, 1994

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. MONTGOMERY].

### DESIGNATION OF SPEAKER PRO TEMPORE

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

WASHINGTON, DC,  
September 28, 1994.

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

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

### PRAYER

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

Our hearts reach out to every person who suffers from the violence in our communities and in our world, to those who are refugees and have no home and to children that are abandoned, to those who have no work and whose lives seem meaningless, to those who are hungry and do not have the necessities of daily life. O gracious God, from whom comes every good gift, bless all those who look for hope in their lives and who seek purpose and security and peace. May Your good spirit, that lifts up every person, and allows us to see this new day with renewed faith and confidence, be with us and remain with us now and all our days. Amen.

### THE JOURNAL

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

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

### PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Michigan [Mr. KNOLLENBERG] come forward and lead the House in the Pledge of Allegiance.

Mr. KNOLLENBERG led the Pledge of Allegiance as follows:

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

### MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced

that the Senate had passed without amendment bills of the House of the following titles:

H.R. 3839. An act to designate the United States Post Office building located at 220 South 40th Avenue in Hattiesburg, Mississippi, as the "Roy M. Wheat Post Office";

H.R. 4177. An act to designate the United States Post Office building located at 1601 Highway 35 in Middletown, New Jersey, as the "Candace White Post Office";

H.R. 4191. An act to designate the United States Post Office building located at 9630 Estate Thomas in Saint Thomas, Virgin Islands, as the "Aubrey C. Ottley Post Office"; and

H.R. 4230. An act 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.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4554) "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."

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate numbered 11, 15, 25, 26, 32, 33, 34, 37, 41, 42, 57, 70, 75, 76, 84, 89, 91, 94, 98, 100, and 102, to the above-entitled bill.

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate numbered 5, 14, 19, 20, 30, 51, 56, 58, 60, 64, 71, 72, 98, 100, 111, 117, and 123, to the bill (H.R. 4624) "An Act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1995, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the above-entitled bill.

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate numbered 28 and 84, to the above-entitled bill.

The message also announced that the Senate had passed bills and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 922. An act to provide that a State court may not modify an order of another State

court requiring the payment of child support unless the recipient of child support payments resides in the State in which the modification is sought or consents to the seeking of the modification in that court;

S. 2468. An act to permit the Secretary of Agriculture to make available certain amounts for FmHA farm ownership, operating, or emergency loans, and for other purposes; and

S. Con. Res. 74. Concurrent resolution concerning the ban on the use of United States passports in Lebanon.

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 716) "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."

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 2060) "An Act to amend the Small Business Act and the Small Business Investment Act of 1958, and for other purposes," agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BUMPERS, Mr. NUNN, and Mr. PRESSLER to be the conferees on the part of the Senate.

The message also announced that pursuant to Public Law 103-296, the Chair, on behalf of the Republican leader and in consultation with the ranking minority member of the Finance Committee, appoints Carolyn L. Weaver, of Virginia, for a 3-year term to the Social Security Advisory Board.

### JOBS BILL

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, today, I, along with the majority leader, the gentleman from Missouri [Mr. GEPHARDT], will introduce the National Infrastructure Development Act of 1994. This legislation will achieve two important goals: It will create more than 250,000 new jobs nationwide, and it will strengthen this country's crumbling infrastructure by providing resources to build new roads, bridges, water treatment facilities, and the like.

Due to Federal, State, and local budget constraints, there is a growing gap between infrastructure needs and the resources to fund them. Increasingly, we have looked to public-private partnerships to fill that gap. The legislation I introduce today will put a permanent mechanism in place to help us

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

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

maximize our opportunities to create jobs in infrastructure development.

Too many of our workers are being left behind. At a time when the Government is struggling to meet its obligations, we need to look for innovative ways to create jobs. The Infrastructure Development Act taps new markets and resources to spur long-term job growth.

Over the coming weeks and months, my colleagues in the House will have the opportunity to review this legislation. I expect this will be a piece of legislation that will find support on both sides of the aisle. Whether Democrat or a Republican, we all know that job creation is the key to a strong economy.

#### A CONTRACT IS A PROMISE

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

Mr. KNOLLENBERG. Mr. Speaker, starting this past Thursday, the Democratic leadership has begun a carefully orchestrated campaign of misinformation on the Republican contract with America.

Why you might ask? Well, they are scared.

What we propose is a simple straightforward, 100-day legislative agenda that offers hard-working American taxpayers a real choice, a real chance, and some real hope.

And rather than get into the legislative specifics of the contract, let me just say that under our guarantee, we promise to limit Federal bureaucracy, make Government accountable, promote economic opportunities and individual responsibility, and maintain security at home and abroad.

A growing number of Americans are discarding the failed ideas of big government, and it is up to Congress to recognize this movement.

We've made our promise. Now isn't it about time that our friends on the other side of the aisle make their own stand? They need to realize that the public does not want rhetoric; they want accountability. Yesterday, we showed we're accountable, and we started delivering.

#### TRIBUTE TO THE MATHENEY FAMILY

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

Mr. DICKEY. Mr. Speaker, I come today to share with this body and the Nation a truly remarkable family in the Fourth Congressional District of Arkansas. Roy Eason Matheney, Sr., his wife, Verlene, and their seven children are all striking examples of the spiritual, moral, and hard-working fiber on which our Nation was founded.

Roy Eason Matheney, Sr., has been a spiritual leader for nearly four decades. He has met the needs of thousands of people throughout his life long work as a pastor-evangelist. This Sunday, October 2, he and his wife will be honored for their years of service to the south Arkansas community.

Following in their footsteps are their seven children Roy, Jr., Robert, Ronald, Rickey, Ralph, Rodney, and Roslyn Matheney-Williams—two medical doctors, two educators, one pastor, and two associate pastors who are all college educated. The Matheney children are beacons of hope for today's youth.

Because of his accomplishments, Roy Eason Matheney, Sr., was inaugurated on May 7, 1994, into the Office of Bishop of the Third Ecclesiastical Jurisdiction of Arkansas in the Churches of God in Christ, by that organizations' national bishop, Bishop L.H. Ford. It's a position that oversees over 60 churches in south Arkansas.

It is with great pleasure that I take this time to honor this great American family. Pastor and Mrs. Matheney will celebrate their 33d wedding anniversary at the Davis Memorial Church of God in Christ in Crossett, AR, this Sunday, October 2, 1994. The Matheney name and their deeds will be long remembered by the people of the Fourth Congressional District.

#### TAKE THE TIME TO READ THE BILL

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

Mr. GOSS. Mr. Speaker, in a rare victory yesterday, those of us seeking to uphold the Standing Rules of the House won an important point. It may sound like a small thing, but by preserving the traditional 3-day layover requirement for bills coming to the floor, we won Members an extra day to read S. 349, the lobby reform bill. This is an important subject, long overdue and responsive to the call of the American people for stronger and clearer disclosure, gift, and travel rules. But this bill is as confusing as it is important, and even the most well-meaning, unsuspecting Members could find themselves in a minefield if they do not understand the nuances. The Ethics Committee will develop guidelines to help Members adhere to the new policies, but I urge Members not to be complacent. Take advantage of that extra time, and read the bill. As is the case for the average American, ignorance of the rules will not be an acceptable excuse, and boy is this lobby bill full of new rules.

#### HEALTH CARE REFORM

(Mr. LAZIO asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. LAZIO. Mr. Speaker, according to Senator MITCHELL and the House Democrat leadership, the 103d Congress will not pursue even a modest health care reform proposal any further before adjournment.

My constituents tell me that they want health care reform. They, as I, recognize that we have the best health care in the world, but the system is far from perfect and can certainly be fixed. They also tell me that they want reform done right and not to do more harm than good in the name of political expediency.

Reforming our Nation's health care system is arguably the most complicated issue that Congress will ever address. For a wide variety of reasons, moving a comprehensive reform package through the legislative process has proven politically infeasible.

However, a number of reforms have been identified during the debate that many of us on both sides of the aisle do, in fact, agree on. To me, it makes sense that we constructively use the time left before adjournment to focus on that common ground. We must brush aside partisan bickering and work together on the elements of health care reform where we agree. A stalemate simply does not serve the American people well.

□ 1010

#### ENCOURAGING MEMBERS TO LOOK AT THE LOBBYING DISCLOSURE ACT CAREFULLY

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

Mr. GINGRICH. Mr. Speaker, I just want to caution my colleagues on both sides of the aisle to look very, very carefully at the lobbying bill which is coming up. Our initial analysis indicates that those who lobby on behalf of religious organizations on issues such as abortion or pornography would have to file for grass roots activities. The small businesses which might want to come and talk to a Member of Congress could potentially be required to register officially, that efforts to communicate precisely the way the health bill was defeated would, in fact, become much more difficult and much more dangerous, and that a brand new President, with all of the police powers of the Government, might well be able to coerce freedom of speech, not in dealing with the Congress but in grass roots, lobbying, talking to grass roots voters.

I urge all of my colleagues, look very carefully at what is a hidden effort here to cut off free speech and to cut off citizens being informed and citizens being active and religious groups being active.

This is potentially a very antireligious activist, antimall business, antigraffiti voters bill.

#### THE LOBBYING DISCLOSURE ACT

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

Mr. OLVER. Mr. Speaker, it just makes sense, in spite of what the previous speaker said.

It bans most gifts from lobbyists.

It makes lobbying activities public.

It is the lobbying reform and gift ban bill.

And it is a small step toward reforming our political system.

The public debate should be won not with a fancy dinner or a golf trip—but with facts.

That is a step forward.

We can go further.

We can still fight expensive campaigns by limiting PAC contributions.

We can still clean up the system so people can have confidence in those they put in office.

But this week, we start with a single, simple step.

Pass lobbying reform and the gift ban.

It is the right thing to do.

#### WHAT ARE DEMOCRAT CHICKEN LITTLES SO AFRAID OF?

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

Mr. SMITH of Texas. Mr. speaker, Democrats are running around like a flock of Chicken Littles, all frantically clucking "the sky is falling, the sky is falling."

Why? Because of Republicans' contract with America. So much commotion begs the question: What are the Democrats so afraid of?

Are the Democrats afraid of the fiscal responsibility this contract would require? Are they afraid that we will take back our Nation's streets?

Are they afraid of our proposals to increase personal responsibility or to reinforce America's families? Are they afraid of job creation, of legal reforms, and allowing seniors to work without penalty?

Are the Democrats afraid of these reforms that America wants or are they just afraid that reform—real reform, real change, and right now—will cost them their ability to dictate to this Congress and this country what will be debated?

Republicans' contract with America does not signal that the sky is falling, as the Democrat Chicken Littles claim. Republicans' contract with America signals that the clouds are parting.

#### REPUBLICAN CONTRACT WITH AMERICA IS NO JOKE

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

Mr. GEPHARDT. Mr. Speaker, yesterday, Republican House candidates signed their contract with the Republican leadership—a list of the bills they would introduce if they gained control of the House.

It would be easy for us to view this contract as a mere partisan ploy—a jumble of time-worn, discredited proposals that simply do not add up. Indeed, today's U.S.A. Today describes it as a "con," "fiscal games," and "the same old fraud."

But before we dismiss this contract as an election year joke, we would be wise to remember that the last time Republicans banded together to present the same agenda, the joke was on us.

Back in 1980, when the Republicans cried for large tax cuts for the wealthy, massive increases in defense spending, and a balanced Federal budget, few of us took it very seriously. In the absence of real dissent, America was treated to a 12-year Reaganomic roller-coaster ride—tax giveaways for the rich, runaway deficits, and rampant economic decline.

That is why we have to take this effort to resuscitate Reaganomics very, very seriously. This contract would blow a hole in the Federal budget of roughly a trillion dollars.

Their commitment to balance the Federal budget would require \$743 billion in budget cuts over 5 years. On its own, this would force deep cuts in Medicare or Social Security or both—since these programs represent about 40 percent of all available savings.

Tack on a \$70 billion defense increase, and \$200 billion in tax cuts for the wealthy, and the result is a trickle-down time warp that could bury us in debt for much of the next century.

The fact that the GOP is touting these failed policies as fresh, new ideas may seem laughable—but if we do not expose their deception, we will laugh this country into fiscal oblivion.

In the words of today's U.S.A. Today, "Like 1980's free lunch, this one promises a huge bellyache later."

#### 103D CONGRESS COULD DO MORE

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

Mr. GUNDERSON. Mr. Speaker, I think the gentleman from Missouri [Mr. GEPHARDT], the majority leader, ought to focus a little less on what the Republicans want to do in the next session of Congress and focus a lot more on what is not being done in this Congress. I do not care whether one is a Democrat or Republican, liberal or

conservative, I think one of the great reasons the public is disgusted with this institution is because we cannot even agree on and implement those basic elements of health care reform essential to every American.

There is not a person in this institution who does not agree that we ought to eliminate the preexisting condition barrier to insurance coverage. There is not a person in this institution who does not believe we ought to give 100 percent deductibility to farmers and self-employed and individuals who purchase their own insurance.

Yet, for partisan posturing and other reasons, we see an all-or-nothing mentality. And while we argue, the people are suffering.

I have numerous farm families in my district paying \$600 to \$800 a month for health insurance and, because of a preexisting condition, they cannot switch policies. And because we do not give them 100 percent deductibility, they had held out hope this year that we would change things so that they could do something different next year.

Now it looks like the Congress is going to disregard these, our constituents, with whom we were elected to serve.

#### CONFERENCE REPORT ON H.R. 4556, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1995

Mr. GORDON. Mr. Speaker, by direction of the Committee on rules, I call up House Resolution 553 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 553

*Resolved*, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 4556) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1995, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman from Tennessee [Mr. GORDON] is recognized for 1 hour.

Mr. GORDON. Mr. Speaker, during consideration of this resolution, all time yielded is for the purpose of debate only. At this time I yield the customary 30 minutes for the purpose of debate only to the gentleman from Florida [Mr. GOSS], pending that I yield myself such time as I may consume.

Mr. GORDON. Mr. Speaker, House Resolution 553 provides for the consideration of the conference report on the Department of Transportation and related agencies appropriations bill for fiscal year 1995.

The rule waives all points of order against and conference report and against its consideration.

I would like to commend Chairman BOB CARR and ranking Republican FRANK WOLF for bringing this comprehensive conference report to the floor today.

The long hours, hard work and dedication have produced a good bill which maintains our current transportation infrastructure and provides funding for innovative technologies which will make our Nation's transportation system safer, more efficient and economical.

This year, Chairman CARR and the conferees had to achieve these goals with a much tighter budget. The conference report is \$10 million below the 602(b) allocation.

I want to commend Chairman CARR for his many achievements as chairman of the subcommittee. Under his leadership, the Transportation Appropriations Subcommittee developed detailed investment criteria which every member submitting a funding request must complete. I hope the criteria continues to be utilized in the years to come.

I want to thank Chairman CARR for his friendship and advice. I also want to thank FRANK WOLF and the subcommittee staff for all of their hard work and for a job well done.

I urge my colleagues to adopt the resolution.

□ 1020

Mr. GOSS. Mr. Speaker, I reserve the balance of my time.

Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the 1995 transportation appropriations bill has evolved through a process of give-and-take that saw some rearranging of priorities and, I think, resulted in a better and fairer product for the American people. The conference report that came to the Rules Committee last evening represents the result of months of hard work and negotiating on both sides of the aisle and both sides of the Capitol. The rule before us waives all points of order—a blanket waiver—blank check, if you will—that affords this conference report complete protection from violations of the rules of the House. While I recognize that bills of this magnitude are often so complex that it is difficult to determine if every "I" is dotted and every "T" is crossed—I believe that chairmen who bring these bills forward should know which House rules their bills have violated and which waivers they need. I have been given by staff a partial list of the rules violations in this bill—including germaneness, scope and legislating in an appropriations bill—and for that I am grateful. I think that providing such specific information allays Members' concerns about hidden surprises that might be tucked into these massive bills—and it certainly comes closer to living within the rules we

have set for ourselves in this House. I hope that these specific waiver requests, as opposed to blanket waivers, will become more the norm than the exception. In addition, Members should note that the blanket waiver in this rule sets aside the requirement that conference reports be available for 3 days prior to floor consideration—another provision of House rules designed to protect Members against unpleasant surprises. As the Washington Post noted this week in an editorial, such waivers can cause real problems. They said, "Members are sometimes forced to vote on bills they haven't read and into which provisions have been inserted that might not be able to stand the light of day; the crime bill was a recent example."

Now, I am not implying that this bill has such a problem—but generally I think it is best if we make sure we give Members enough time to be sure on their own. Still, I do recognize that October first—end of the fiscal year—is fast approaching, and so I will not object to this waiver on this bill.

Mr. Speaker, as a Floridian, I must admit that I am still concerned about the formulas used for allocating Federal highway dollars—formulas that continue to leave high-growth States with the short end of the money. As a strong advocate for the Coast Guard, I note that, while this bill offers an increase for Coast Guard funding from last year's bill, it still falls short of their request. I know my colleagues don't need to be reminded of the important duties the Coast Guard traditionally performs—duties that have been forced to a lower priority in recent months as the Coast Guard has become a major player in the Clinton administrations war like Haitian policy. To conclude Mr. Speaker, I wish offering blanket waivers were not such a reflex action in the Rules Committee, and I hope that during next year's appropriations process we will see fewer such requests.

Mr. Speaker, I reserve the balance of my time.

Mr. GORDON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in conclusion, I would like to say briefly that this is the last appropriations bill that the chairman of the committee, the gentleman from Michigan [Mr. CARR], will be presenting to the U.S. House of Representatives. Not only is he a friend and colleague, but BOB CARR is someone who I think has really brought new accountability to this appropriations process, a system that hopefully will live on and make a more logical, economical approach to these very needed appropriations.

Mr. Speaker, he is a good friend, he is a good Member, he is a good man. We are all going to miss him, and all my best to BOB, his wife Kate, and family.

Mr. GOSS. Mr. Speaker, I have no further requests for time. In the inter-

ests of bipartisan comity and of moving this bill in a forward way, I would like to associate myself with the remarks of the gentleman from Tennessee [Mr. GORDON] about the chairman, and I yield back the balance of my time.

Mr. GORDON. Mr. Speaker, I have no further requests for time. I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. CARR of Michigan. Mr. Speaker, pursuant to House Resolution 553, I call up the conference report on the bill (H.R. 4556) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1995, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to House Resolution 553, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Monday, September 26, 1994, at page H9719.)

The SPEAKER pro tempore. The gentleman from Michigan [Mr. CARR] will be recognized for 30 minutes, and the gentleman from Virginia [Mr. WOLF] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan [Mr. CARR].

GENERAL LEAVE

Mr. CARR of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report to accompany H.R. 4556.

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

There was no objection.

Mr. CARR of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we present to the House a conference report on the fiscal year 1995 transportation appropriations bill. As Members know, the start of the 1995 fiscal year is just 3 short days away. The conference agreement provides funding to continue the important operations of transportation programs and related activities, including air traffic control, Coast Guard operations, and other critical transportation safety activities.

The transportation appropriations bill always requires a delicate balancing act, and this year was no different. We have had to deal with competing demands for extremely limited funds. This conference agreement is the result of long and arduous negotiations, and represents the very best efforts of the conference committee to achieve a fair and a balanced bill.

□ 1030

Before getting into the specifics of the conference agreement, I want to offer my sincere gratitude and appreciation to the gentleman from Virginia [Mr. WOLF], the ranking minority member of the subcommittee and my partner in this bill. He has worked hard to obtain a good bill. I have appreciated his diligent efforts during the long months of hearings and throughout the House consideration of the bill and right up until the conference and the final filing of the conference report. I also want to acknowledge the work of the other members of the subcommittee: The gentleman from Illinois [Mr. DURBIN], the gentleman from Minnesota [Mr. SABO], the gentleman from North Carolina [Mr. PRICE], the gentleman from Texas [Mr. COLEMAN], the gentleman from Pennsylvania [Mr. FOGLIETTA], the gentleman from Texas [Mr. DELAY], and the gentleman from Ohio [Mr. REGULA] for their contributions, as well as the contributions of the gentleman from Wisconsin [Mr. OBEY], our full committee chair, and the gentleman from Pennsylvania [Mr. McDADE], the ranking full committee minority member. They have all made invaluable contributions to the legislation that we are about to consider today.

Finally, I want to make sure that everyone understands as we here in the body know so well that the product could not be with us today without the able help of our professional and associate staff members. They have worked very hard and very long. While many of the members are able to take a lot of the credit for the work product, it is truly theirs.

Mr. Speaker, the conference agreement provides \$13.7 billion in new discretionary budget authority and assumes \$12 billion in new outlays. The conference report is just below our 602(b) allocation in budget authority and virtually identical to our allocation in outlays. The total budget resources provided, including new budget authority, limitations on obligations, and exempt obligations, is \$14.3 billion in budget authority and \$37.1 billion in outlays.

Mr. Speaker, we have faced several difficult and challenging issues in crafting this compromise agreement. In recent days the issue of how to allocate fairly funding for designated highway projects presented a dilemma. While the total amount allocated for such projects in both the House and Senate bills is roughly similar, each body chose a markedly dissimilar approach to determining the distribution of those funds in individual projects. The conferees ultimately agreed to provide a total of \$352 million, evenly divided between the two Houses, with each House allocating its portion.

As anyone who reads the newspapers knows, it has not been easy reaching

an accommodation with very divergent and passionately held views of the conferees. I believe it is a testament to the judgment and objectivity of all the conferees that this potentially divisive matter was resolved in an equitable manner.

Another important issue was that of the Penn Station redevelopment project in New York City. Members on both sides of the Capitol have equally strong feelings both for and against this project. It ultimately may require the Federal Government to invest about one-third of the total project cost of \$315 million. The compromise embodied in this bill provides \$40 million toward the Federal matching share but specifies that none of these funds may be obligated unless authorized. I believe this is a good compromise between the divergent views on this item and I believe it is a compromise that the Members of the House should accept.

The proposed demonstration of two-person high occupancy vehicles on I-66 inside the beltway in Virginia also generated a tremendous amount of controversy. I am pleased to report that the difference of opinion on this matter has also been resolved. The conference agreement allows the demonstration to go forward if approved in advance by certain members of the Transportation Planning Board.

Mr. Speaker, I would now like to turn to some of the specific provisions in the conference agreement:

The agreement provides \$3.7 billion for the activities of the coast Guard, a slight increase over the 1994 level. Included within this amount is \$2.6 billion for operations and \$363 million for acquisitions and construction. We have restored a \$25 million appropriation for the Boat Safety Program which the administration had not included in its budget request.

The agreement provides \$8.4 billion in new budget authority and obligation limitations for the activities of the Federal Aviation Administration. Within this total we have increased appropriations for critical FAA operations to \$4.6 billion or \$15 million more than the 1994 level. This appropriation includes \$17.6 million to continue the pay demonstration project. The bill limits obligations for FAA's airport improvement program to \$1.45 billion—a slightly lower level of effort than in the current fiscal year.

The agreement provides a total of \$19.9 billion in new budget authority and obligation limitations for the Federal Highway Administration. Reflecting the severe budget constraints facing the conferees, the bill includes \$17.2 billion for the primary Federal-aid Highways Construction Program. Unfortunately this amount is \$430 million below the 1994 level, but under these difficult budget circumstances this was the best that we could do.

The agreement provides \$2.5 billion for transit formula grants, including \$710 million for operating subsidies. With regard to operating subsidies, we reached a compromise funding level approximately midway between the current level and the administration's request.

The agreement allocates \$1.7 billion for transit discretionary grants including: \$725 million for rail modernization; \$353 million for buses and bus facilities; and \$647 million for section 3 new fixed guideway systems.

We also faced a perplexing challenge in fairly allocating funds for buses and bus facilities, as well as section 3 new starts. Again, because the House and Senate took such different approaches to allocating these funds, the conferees agreed to approximately a 50:50 split of the funds, with each body then allocating its share according to its priorities. A priority for the conferees was to reserve a portion of bus and bus facility funds for allocation by the Secretary of Transportation. The conference agreement reserves \$30 million for this purpose.

To provide financial support to Amtrak, the bill appropriates \$772 million for Amtrak operations and capital grants, \$200 million for Northeast corridor improvements, and \$40 million for Penn Station redevelopment, as I mentioned previously. This is 10 percent more than was provided for Amtrak this fiscal year.

Mr. Speaker, the conference agreement also includes several other important provisions.

The bill appropriates \$37 million for pipeline safety programs, nearly doubling current appropriations to address numerous safety issues arising from the March 1994 gas pipeline explosion in New Jersey and last year's oil pipeline spill in Reston, VA.

The bill appropriates \$30 million to continue the Interstate Commerce Commission [ICC], a reduction of 33 percent below the 1994 level. Mr. Speaker, this funding level comports with the enactment into law of H.R. 2178, which abolishes motor carrier tariff filing requirements, and thereby eliminates about one-third of the ICC's regulatory responsibilities. These collective actions will result in a streamlined ICC and permanent budget savings, but will avoid disruption of ongoing ICC regulatory responsibilities in the rail area.

The bill also includes significant administrative savings in the operation of the Department of Transportation, including reductions in the Department's working capital fund, procurement obligations, staffing and employee award. Additional details of the bill are addressed in the conference report and joint explanatory statement of the managers.

Mr. Speaker, I merely want to say when the day is done that this conference agreement was difficult to

achieve. The agreement is carefully crafted and it protects the significant provisions and major interests in the House-passed bill. It is within our budgetary allocations. We had the cooperation of all the Members. I ask the membership of this body to approve the conference report on transportation appropriations.

Mr. Speaker, I reserve the balance of my time.

Mr. WOLF. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I now support this bill. As the members know, I had serious reservations earlier about the distribution by the conference of certain highway funds, but these concerns about the basic fairness of the bill have been resolved and I support Chairman CARR's efforts. I ask my colleagues to support H.R. 4556 as well.

But I would also like to retrace the chronology of the controversy over this bill and make the point that the inequity of one State dominating the highway demonstration account must never happen again. And, this was not a partisan issue. There was concern on both sides of the aisle.

As the Members know, one project in the State of West Virginia, corridor H, was allotted \$140 million in the Senate version of this bill. That was nearly one-half of the \$352 million in the entire highway demonstration account. When we completed the House-Senate conference on this bill, corridor H still had \$90 million, nearly one-third of the total resources available. This was unfair and worked to the detriment of many States with severe congestion problems, especially large States like California, Florida, and Illinois. And even more disturbing was the fact that this same project already had \$75 million in the fiscal year 1995 energy-water bill, and all the State of West Virginia can obligate this coming year is \$82 million. I felt that it was extremely unfair for one State to bank large sums of money, while other States aren't even able to meet pressing highway needs.

Without going into detail, these concerns were addressed in my September 26 statement which I will include in the RECORD.

I am pleased, however, that, through the efforts Chairman CARR and full committee Chairman OBEY, this matter of fairness was resolved with the Senate conferees, and in this conference report, corridor H is only allotted \$35 million. I believe this has resulted in a more equitable distribution of these funds among the States.

Today, I want to discuss the 1995 transportation appropriations bill that went to conference late last week. The highway demonstration projects account of the bill is particularly troubling.

Before the bill went to conference, Chairman CARR and LAUTENBERG agreed to share the highway funding between the Chambers at

a 52-48 percent split. The House's share of the \$352 million was about \$170 million which Chairman CARR and the subcommittee handled fairly. The Senate's share, on the other hand, about \$183 million, was highway robbery.

Of the \$183 million in the Senate, one State, West Virginia, got \$95 million, or 53 percent, for two projects—\$90 million for the controversial corridor H and another \$5 million for route 52 improvements. To put it in terms that everyone can easily understand, West Virginia got more Senate money for highway demonstration projects than the rest of the country combined. A total of 1.8 million people got \$95 million while the rest of the country, about 254 million, splits \$88 million. And let me just say for the record, the people of West Virginia are good people, but this is unfair, unjust, and inequitable. This is just plain wrong. It is exactly why the American people are fed up with Congress. When the power of a few is stronger than the power of the people, something has got to change.

What makes matters worse is, in addition to the \$90 million in this bill, corridor H got \$75 million in the energy and water spending bill earlier this year bringing the total for this road project to \$165 million. I checked with the Federal Highway Administration and they told me West Virginia can only obligate \$82 million for this project in fiscal year 1995. West Virginia has gotten twice as much money as it can spend, while the rest of the country doesn't have enough. This money could be going to needed projects to help congested areas like Los Angeles and Miami, where moms and dads are sitting in traffic while they could be at home spending time with their kids. California and Florida both got \$0 in Senate funding.

To put it in perspective, if you add up the Senate funding for the 20 most populated States, they get a total of \$39 million, California gets nothing, Florida gets nothing, Illinois gets nothing, New York gets only \$1 million and on and on and on. Each of you has been provided with a chart which clearly shows these figures. And West Virginia gets \$95 million? How can this be?

In 1988, Senator ROBERT BYRD of West Virginia announced that he was going to trade in his post of Senate majority leader to take the chairmanship of the Senate Appropriations Committee with the intent of bringing to West Virginia \$1 billion by 1995. At a 1990 dedication ceremony in Beckley, WV, Senator BYRD commented on his pledge, "I'm trying to get the money as fast as the State can keep up with it." By 1990, 4 years ahead of schedule, Senator BYRD's total of \$1 billion for West Virginia had been reached.

Just look at the last five transportation spending bills.

In the fiscal year 1991 transportation appropriations bill, Senator BYRD hijacked \$137 million, or 30 percent, of the \$459 million for highway projects for West Virginia.

In the fiscal year 1992 transportation appropriations bill, Senator BYRD took \$162 million, almost 30 percent, of the \$589 million available. Of the \$162 million, \$148 million was for the corridor G project which received an additional \$58 million in the energy and water appropriations bill. The next closest State in

highway receipts was Michigan with \$46 million. West Virginia got \$162 million. Twenty-three States, including California and Texas, got nothing.

In fiscal year 1993 West Virginia got \$104 million for two projects, corridor L at \$24 million, which was second only to corridor G at \$80 million. These two projects in West Virginia amounted to one-third of all highway demonstration project dollars.

In fiscal year 1994 corridor L got another \$54 million which amounted to 43 percent of the country's highway dollars.

And in fiscal year 1995, you know the story, West Virginia, for two projects, got 52 percent of the Senate's money or 27 percent of the Nation's highway money for demonstration projects.

Another part of the story is, the figures I have just gone over are basically transportation bills only. They do not take into account the relocations of parts of several governmental agencies like the FBI, the Bureau of Public Debt, the Fish and Wildlife Service, the Coast Guard, and so on.

The message here is, and the Washington Post, Orlando Sentinel, Houston Chronicle, and other have recognized it, there is a pattern of greed and abuse of power here and until it changes, the attitude toward this body with the American people will not improve.

Again, I want to thank both Chairman CARR and Chairman OBEY for being responsive to my concerns and for their diligent work in persuading the Senate to accept a more reasonable approach to the distribution of these highway funds. Also, since this is the last vote my friend from Michigan, Mr. CARR, will seek on a transportation bill in this body, I want to tell him how much I have valued working with him as the ranking member of the subcommittee. No one has worked harder than BOB CARR to bring accountability and fairness to the allocation of scarce transportation resources, and my hat is off to him. I want to wish him well and to let him know that I will miss him.

Mr. Speaker, I reserve the balance of my time.

Mr. CARR of Michigan. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Wisconsin [Mr. OBEY], the chairman of the full Committee on Appropriations.

□ 1040

Mr. OBEY. Mr. Speaker, I want to do a number of things on this bill this morning. The first thing I want to do is to express my regret that the gentleman from Michigan [Mr. CARR] will be leaving this House. He is seeking what I would not call higher office, but he is seeking a different office, located on the other side of the Capitol. I question his judgment, but I nonetheless hope that he succeeds in that endeavor because he has brought a tremendous amount of skill, a tremendous amount of integrity, and energy to the process, and I very much appreciate that. I think he has performed a tremendous service to the public in the years which he has served in this House and we are going to miss him.

I would also like to comment briefly on the conference report itself. As I

think most Members know, there were a number of items which appeared to be causing controversy after the conferees had concluded their original meetings. One was a misunderstanding involving the HOV lane situation in Virginia. I am very pleased that that was worked out in a more favorable fashion.

Second, the question of the Corridor H funding in West Virginia was a significant problem, and it was a problem which was brought up to me by a good many Members on both sides of the aisle.

I want to congratulate very much the flexibility shown by Senator BYRD, by the gentleman from Virginia, Mr. WOLF, and by Chairman CARR. I think that without that flexibility on all sides this problem could not have been worked out, and as a result that project which was at \$140 million originally in the Senate bill and \$90 million in the conference report is now at \$35 million, which is I think a substantially more understandable result, and I think Members in this House can feel quite good about it.

The third issue was whether or not the highway projects would be 48 to 52 split in favor of the Senate or if they would split down the middle 50-50. That was adjusted so that the House and Senate shared equitably in the highway projects in this bill.

I would simply say that this bill is a valuable bill for the country. It will provide a good many jobs because of the construction projects that are included in this bill. It will provide for economic modernization, and it will increase economic efficiency. We do have two bridges a day that fall down in this country. It would be kind of nice if we made more progress in fixing them and this bill helps to modernize our transportation infrastructure which is crucial to providing good economic opportunity across the country.

I also want to commend House Members on both sides of the aisle for declining generally to try to load up these bills with extraneous matters. As we know, in the other body there is a good deal of loading up which appears to be going on on several of the appropriations bills. I very much appreciate the fact that on both sides of the aisle Members in this House have not engaged in delay, have not engaged in obstruction, have not engaged in overt partisanship with respect to any of the appropriations bills which have come before the House this year.

There is only one appropriations conference report remaining to be passed through this House after this bill is passed, and we expect to finish our work on that tomorrow and then the House's work will be done on appropriation matters.

So, I very much again appreciate the assistance of the gentleman from Michigan [Mr. CARR], the assistance of

the gentleman from Virginia [Mr. WOLF], and I would urge the House to support the bill as it stands before us.

Mr. CARR of Michigan. Mr. Speaker, I yield myself 1 minute. I merely want to applaud the efforts of our full committee chairman, the gentleman from Wisconsin, Mr. DAVID OBEY. Our bill did have a major, I would say almost a catastrophic impasse at the close of the conference. I have been on this committee now for some 12 years, and I have never seen a full committee chairman who was more responsive to a subcommittee chairman in terms of a request for help and intercession and bringing tremendous legislative skill to solving a most difficult problem.

While I am at it, I want to commend the chairman of the Committee on Appropriations in the other body, who exercised heroic restraint and one might say political self-sacrifice to see to it that there was an equitable resolution of the controversy at hand and that is what makes this bill and its contents so supportable by all Members of the House and the Senate.

Mr. WOLF. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Mr. Speaker, I really appreciate the gentleman yielding the time to me. I would like to take this moment to pay a special tribute to my colleague, the gentleman from Virginia [Mr. WOLF], who has been very aggressive on this bill in a variety of ways, but one way in particular that took an immense amount of courage from him was his support of my effort, really a bipartisan effort to eliminate the Interstate Commerce Commission.

We ended up passing that bill through this House eliminating that commission. It then went over to the Senate, where the elimination was blocked.

However, contained in this bill today is a 30 percent reduction in the total operating costs of the Interstate Commerce Commission.

The gentleman from Colorado [Mr. HEFLEY], who is on the floor with us today, and I actually went to the Senate and made this argument. The gentleman from Colorado [Mr. HEFLEY] and I together have been working on this issue for a number of years and the gentleman from Colorado deserves an enormous amount of credit for his work in terms of trying to eliminate this bureaucracy.

I would say to the House today that the 30 percent cut is not something that I view as a lasting victory, but only, I guess the only way I would put it is a grudgingly accepted compromise on the part of the gentleman from Colorado [Mr. HEFLEY] and myself. But we will be back next year. We have already begun negotiations with Members of the majority party and we have entered into discussions about the way to orderly transfer these activities into the Department of Transportation.

I have a gentleman's handshake from most of the Members on the Democrat side of the aisle in regard to the orderly transfer of this operation. That is clearly what we must do, an orderly transformation and a twentieth century upgrade in terms of the entire responsibilities of the Interstate Commerce Commission.

But a 30 percent cut at this point is something that we are prepared to accept and give praise to Members on both sides of the aisle with the knowledge that we must move forward and truly reinvent this agency.

But I must just take a special second to thank again the gentleman from Virginia [Mr. WOLF], who under a lot of personal pressure said, "I think what Mr. HEFLEY and Mr. KASICH are proposing in reasonable." Without his support, frankly, I do not think we would have come this far. We have a way to go, but we have taken a first step with more steps to come.

Mr. CARR of Michigan. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. PRICE], a very valuable member of this committee and a member who has been of tremendous personal assistance to me in carrying out my obligations as chairman during this most difficult year.

Mr. PRICE of North Carolina. Mr. Speaker, I enthusiastically rise in support of H.R. 4556, the bill making appropriations for the Department of Transportation for the fiscal year 1995.

The first thing I want to do is to thank our chairman, the gentleman from Michigan, Mr. BOB CARR. He has done a superb job of chairing this subcommittee during tough budgetary times. He has been fair. He has insisted that the projects in this bill be justified, that they be subjected to close scrutiny and justification in terms of specific economic criteria.

□ 1050

He has made certain that this bill represents a sound investment in our economic future.

I wish the gentleman from Michigan [Mr. CARR] the best of luck and hope to continue to work with him as he joins the other body.

The gentleman from Virginia [Mr. WOLF] has made a substantial contribution to this bill, raising questions that needed to be raised. He and the gentleman from Michigan [Mr. CARR] have continued the Transportation Subcommittee's impressive bipartisan tradition. I commend them both for that. I also commend our staff for their dedication and professionalism in crafting this conference report.

This conference report is the result of hard work and cooperation and conciliation by many, many people. We have here a sound bill, a balanced bill. It honors our commitment to fiscal responsibility. It also honors our commitment to spending what we do spend

wisely, making sound investments. This bill will enable us to move ahead in developing all transportation modes in a balanced way, in promoting safety and protecting the environment, and in undergirding economic growth and job creation.

This is a bill of vital importance to my State of North Carolina and to this entire Nation, and I encourage my colleagues on both sides of the aisle to support it.

Mr. WOLF. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. REGULA], a member of the committee.

Mr. REGULA. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong support of the conference report to the transportation appropriations bill for fiscal year 1995.

As with all of the appropriation bills this year, it has been difficult to meet the needs as articulated by Members and at the same time work within the confines of the funds available.

The Nation's transportation infrastructure, as was pointed out by the previous speaker, is vital for continued economic development. If we do not have a strong system of highways, rail, and airports, our Nation could never be as competitive in the world marketplace as we should be. We have adopted NAFTA; the GATT agreement is pending for action here, and all of these things point to a very competitive world out there in the years to come as we become more and more a part of the global marketplace.

Transportation serves as the arteries of the Nation and determines our ability to move goods. The ability to be efficient as a producing country depends a great deal on the quality of our transportation infrastructure.

I think this is one of the most important appropriation bills that we have had, because it is basic to everything else. We talk about welfare problems. We talk about crime problems. Many of those flow from the absence of jobs, and jobs oftentimes flow from the absence of transportation facilities in any given marketplace. So it is an important bill.

I want to commend our leader and chairman, the gentleman from Michigan [Mr. CARR]. He did something unique, and that is establish standards that we could measure these projects by. This was a first, and it resulted in the projects being funded that were cost-effective, that demonstrably were supported by the State, were part of the State's program. I think this set a benchmark that ought to be followed in many other things we do, and that is determine or have some measuring stick as we determine where we will put the limited resources available to us. He certainly, as a chairman, was very open to the minority. It was a col-

legial committee, and our ranking minority member, the gentleman from Virginia [Mr. WOLF], worked closely with the gentleman from Michigan [Mr. CARR], and it is a pleasure to be a member of this subcommittee.

We will miss the gentleman from Michigan [Mr. CARR] as chairman next year, but I think the standards and the criteria that he established will be a legacy that will be very important to our subcommittee as we again have to try to meet the needs with the limited resources available to us. It is because of that, I believe, his contributions will go much beyond his tenure as a chairman in the House.

Mr. CARR of Michigan. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. SABO], chairman of the Committee on the Budget and a member of the subcommittee, a member who has been of invaluable service to the creation of this product.

Mr. SABO. Mr. Speaker, to the chairman and to the ranking member, let me say thank you for bringing a good bill to the House, and to the chairman, let me say just a personal thank you for his great efforts not only on this bill, but it has been a real pleasure to be his colleague these many years in the House. We expect to be across the table with the gentleman from Michigan in the future, not on the same side of the table, and I look forward to continuing to work with him in the years ahead not only on transportation questions but on a whole host of issues where he brings great energy and great wisdom to public policy in this country.

So I simply wanted to thank him for his great service in the House and wish him well and look forward to continuing to work with him.

Let me just simply say about this bill it is a good bill, and let me also say that one of the features of this bill is that there are some highway projects that we fund very specifically, and those come under attacks at times, but there are also times when you do things that are very unique and very important because of that. One that I am particularly familiar with, we are redoing a frontage road on a freeway in advance of freeway reconstruction. What it means is that a small community can do that access road in a fashion that has been planned by the community, that accommodates the residential area, at the same time preserves commercial-industrial area in that suburban community that has very small commercial-industrial tax base.

If they simply waited until reconstruction to reconstruct the existing access road, it would have meant substantial disruption for the neighborhoods, and it probably would have also meant the loss of all the businesses along that stretch of the freeway, because simply doing the access road in

an unplanned fashion, reconstructing the existing one would have eliminated all of the access that people had to those businesses.

So the money that is being spent is being spent in a unique fashion and also in a way to preserve a neighborhood and preserve commercial-industrial base in a very important suburban community.

So I thank the gentleman from Michigan for his good work and wish him well.

Mr. WOLF. Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas [Mr. HUTCHINSON].

Mr. HUTCHINSON. Mr. Speaker, I thank the gentleman for yielding me this time, and I commend our ranking member, the gentleman from Virginia [Mr. WOLF], for the outstanding leadership he has provided.

Mr. Speaker, I rise today in strong support of H.R. 4556, the fiscal year transportation appropriations bill. I commend the chairman and the ranking member of the subcommittee for their hard work on this legislation and for the fine job they have done with limited Federal resources. In particular I would like to commend them for their inventive thinking on section 314A.

The Federal Government is no longer able to fund transportation projects as it has done in the past. I have had a number of conversations on this subject with Federal Highway Administration officials over the last 2 years. In response to the current fiscal situation, it is my understanding that the Federal Highway Administration has been encouraging States to work with them to develop innovative financing plans for Federal highway projects. As a member of the Public Works and Transportation Committee, I would also note that this action is consistent with the 1991 Intermodal Surface Transportation Efficiency Act [ISTEA].

At this point, I would like to enter into a colloquy with my colleague from Virginia.

Is it the intent of the Appropriations Committee that section 314A is to cover applications for innovative financing proposals on high priority corridors as designated in the ISTEA?

Mr. WOLF. Mr. Speaker, will the gentleman yield?

Mr. HUTCHINSON. I yield to the gentleman from Virginia.

Mr. WOLF. That is correct.

Mr. HUTCHINSON. Is it also your understanding that should the State of Arkansas have an innovative financing loan proposal approved by the Federal Highway Administration for Highway 71, that all the funding under that proposal is to be used on the northern portion of Highway 71 from Alma to Fayetteville?

Mr. WOLF. If the gentleman will yield further, that is correct. That is

the understanding, and the gentleman is correct.

Mr. CARR of Michigan. Mr. Speaker, will the gentleman yield?

Mr. HUTCHINSON. I yield to the gentleman from Michigan.

Mr. CARR of Michigan. Mr. Speaker, I would like to concur with the statements of my colleague, the ranking member of the subcommittee. It is the intention of the committee that section 314A be used as a loan program for innovative financing proposals on high priority corridors. And further that funds approved for the State of Arkansas under this section may be used on the Alma to Fayetteville portion of Highway 71.

Mr. HUTCHINSON. Mr. Speaker, I would just want to thank the gentleman from Michigan [Mr. CARR] for the leadership he has provided and for this reassurance that he has given us today. I also thank the gentleman from Virginia [Mr. WOLF].

□ 1100

Mr. WOLF. Mr. Speaker, I yield 2 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. I thank the gentleman for yielding this time to me.

Mr. Speaker. I rise today in support of H.R. 4556, Transportation appropriations for fiscal year 1995. I commend the Appropriations Committee for directing its attention to a transportation nightmare in my congressional district in New Jersey.

The interchange of Route 17/Route 4 in Paramus, NJ, is a major east/west to north/south link in northern New Jersey and its improvement is vital for commuters and commerce. The interchange lies at the heart of Bergen County's commercial hub, and it is a critical crossroad for all of northern New Jersey.

The existing interchange was built in 1932 and designed to accommodate an estimated volume of 12,000 vehicles per day. Clearly, with the present estimated daily volume of 250,000 vehicles, the interchange is no longer suitable, and in dire need of improvement. Not only is the interchange one of the busiest intersections in New Jersey, it is also one of the most dangerous—averaging one motor vehicle accident per day.

This interchange has got to go. We must improve safety and traffic flow.

In addition, a new interchange will help control northern New Jersey's critical air pollution problem and alleviate the heavy traffic flow which has spilled over to residential streets as commuters attempt to avoid the crowded interchange. On any given day, we have gridlock in Bergen County as the direct result of the 4-17 nightmare.

At an estimated total cost of \$90 million, completion of the Route 17/Route 4 interchange project is heavily dependent upon Federal funding.

Full funding for the interchange should not be a problem since both Route 17 and Route 4 have been designated by the U.S. Department of Transportation as components of the urbanized area portion of the NHS, at the request of the N.J. Department of Transportation, the North Jersey Transportation Coordination Council, and other local planning organizations, and in accordance with applicable provisions outlined in the Intermodal Surface Transportation Efficiency Act of 1991 [ISTEA]. As a currently authorized project, the Route 17/Route 4 interchange has already demonstrated its clear merit to the U.S. Congress.

Our local officials have worked closely with the New Jersey Department of Transportation to formulate the approved interchange design. New Jersey stands ready to provide the required matching funding necessary to bring the Route 17/Route 4 interchange problem to a successful resolution.

This appropriation bill contains \$15 million for this project—far more than the insufficient \$3 million that was considered early this year. But the residents of northern New Jersey need more. So I will be back next year fighting for the rest of our fair share.

In the meantime, I urge the House to uphold the Federal Government's commitment to construction and completion of the Route 17/Route 4 interchange by approving this appropriation bill today.

Mr. CARR of Michigan. Mr. Speaker, I yield 2 minutes to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. I thank the chairman for yielding this time to me.

Mr. Speaker, I want, as the chairman of the full committee, the gentleman from Wisconsin [Mr. OBEY], did, to acknowledge the efforts of negotiating this bill that certainly the subcommittee chairman made, the ranking member [Mr. WOLF], the gentleman from Wisconsin [Mr. OBEY], and the senior Senator from West Virginia [Mr. BYRD].

What this bill did, I think, was to focus a lot of attention, and perhaps we are going to visit it again, but I think we have to look when there are certain allegations made about the inequity of one State in an account. That account was for \$352 million, it was one part of a \$36.5 billion bill, of which \$13.7 billion alone went to highways.

So the proportion begins to decline greatly. I think that this discussion has also been helpful, though, because it has caused us to recognize the different needs that each of us has. West Virginia lives and breathes on highways. If you turn to other parts of the bill, for instance, we have some airports getting earmarked, which I support, some airports getting earmarks which exceeded what West Virginia gets for airport money. We have no mass transit systems. We can spend a

lot of time looking for mass transit systems in West Virginia. But they are called coal shuttle cars. We have no mass transit system in West Virginia. The issue of controversy on Corridor H, coming out of the conference, \$90 million is what it costs 1 mile of Metro.

So I just ask that everyone look. I think this does reflect a fair agreement. I am encouraged for this reason. First of all, the \$35 million for the most troublesome section of Corridor H can be built; I think that is very important. The second thing is this committee, for which I appreciate the efforts of all involved, recognizes the importance of Corridor H as a truly national highway. I understand it has funding needs and is ready to go, in the words of the committee, I believe will proceed expeditiously on it.

I think for all of us it is a plus. I hope what this debate has done is begin to cause each of us to recognize the needs which each one of us has and that you may not get what you want in one account but you are probably getting help and assistance in another account. In the context of this broad bill, I believe this committee has addressed many, many needs.

Mr. WOLF. Mr. Speaker, before I yield to the gentleman from Texas [Mr. DELAY], I want to yield myself such time as I might consume. I would want to say one thing with regard to corridor H. I do not want to beat a dead dog, and we are not going to do it. I personally have some fundamental problems on the corridor H issue. While there has been talk of bringing corridor H into my congressional district, into Virginia, the people in the western part of my district do not want the road and obviously, as the gentleman from West Virginia follows the wishes, as he should and does, very ably, of his district, that is something that I want to kind of lay out so there is no misunderstanding.

Second, on this whole issue of corridor H, I think it a decision that the good people of West Virginia are going to have to decide on. There is some controversy developing in West Virginia itself; not in the Nation but in West Virginia itself. I think the people of West Virginia are going to have to sort this issue out. I do not really want to talk a lot about it, but if the gentleman wants—

Mr. WISE. Mr. Speaker, will the gentleman yield?

Mr. WOLF. I yield to the gentleman. Mr. WISE. I thank the gentleman.

Just real quickly, as far as the gentleman's district goes, and I am happy to work with him and others, and he and I have discussed this, I agree with the gentleman. If the people of his district do not want a 4-lane highway, we have discussed this. And they do not have one. That is the way the ARC system works, and it is the way the highway building thing works.

I pledge to him I am not going to try to ram anything through. If he wants to stop at the line, that is fine.

Second, in West Virginia, yes, there is opposition, as there is opposition on every road project everywhere. I invite the gentleman to take a trip with me along the proposed route, and I think we are going to find solid support, particularly as we keep moving westward.

Mr. WOLF. Well, I appreciate that, and I may want to do that sometime. I consider the gentleman a friend. I just think we are going to end the issue with that. I just did not want this to seem as if there were no concerns on corridor H. I did want to make that point clear with regard to the State line and with regard to the local feelings.

Mr. Speaker, I now would like to yield, if I may, 5 minutes to the gentleman from Texas [Mr. DELAY], a distinguished member of the committee who has made a great contribution here.

Mr. DELAY. I thank the gentleman for yielding this time to me.

Mr. Speaker, I want to commend our ranking member, the gentleman from Virginia [Mr. WOLF], for the diligent work that he has done in his second year as ranking member of this subcommittee. He has proved himself an extremely fair, honest and hard-working member of the subcommittee, standing up not just for the interests of the committee but for the interests of the House as a whole. He has put in many long hours crafting this Nation's transportation needs. I commend the gentleman.

I have got to say that Mr. WOLF stood up for the honor of the House when, in my opinion, the other body tried to take advantage of the House. I cannot get into that right now, but suffice it to say—and I put the Members on notice—that the Senate did try to take advantage of the House, and it was because of Mr. WOLF's courage and tenacity that we were able to bring a little fairness back to this bill.

Mr. Speaker, I rise in support of the conference report. This is the bill that literally keeps America on the move. I would like to commend my chairman, the gentleman from Michigan [Mr. CARR], in his last year and last act as chairman, for his diligent efforts on behalf of this Nation's transportation needs. In his short tenure as chairman of the subcommittee, he has instituted many crucial and necessary changes to the committee and applaud his efforts. And, if his future endeavors are successful, he might be able to help make those same necessary and crucial changes in the other body. I would also like to pay tribute to my ranking member, the gentleman from Virginia, [Mr. WOLF]. In now his second year as ranking member he has proved himself as an extremely fair, honest, and hard working member of the subcommittee

standing up not just for the interests of the committee but for the interests of the House as a whole, putting in many long hours crafting this Nation's transportation needs. I commend the gentleman and again, am proud to serve on the committee with him.

Mr. Speaker, this committee has gone to great lengths to address transportation programs in a fair and responsible manner. But I would say that this is just a good conference report, not a great one. I do not think anyone walked away from the conference happy, and I believe that this year's conference was a lesson in how the process really works. With regard to that effort, I would like to also talk briefly about Houston Metro.

The committee has shown continued support for Houston's regional bus plan. Although the conference halved nearly all projects, this was a fair and equitable decision since no project received special attention. Almost as important as the funding for Houston Metro was the language in the report regarding the regional computerized traffic signalization system.

The language states that the funding provided for the regional bus plan program is intended to be used for the entirety of the regional computerized traffic signal system [RCTSS] project, as described in Metro's grant application to the Federal Transit Administration for the first annual capital construction program.

This was necessary because there has been a great deal of confusion with regard to Houston's plan and the overall goals and objectives of the program. Put simply, there has been a literal "change-of-heart" regarding what the FTA has already approved for Houston.

Without this state-of-the-art system, the regional bus plan will be just another bus system—which is not at all what will effectively serve Houston and is not what I support. Houston's innovative bus system using the regional computerized traffic control system, as planned, will allow buses to operate like a rail system at a significantly lower cost. For the new FTA to be suddenly reassessing its past endorsement and support of the regional bus plan and the regional traffic control system is simply wrong. This language will clarify the committee's intent for the Federal funding of Houston Metro.

This plan, without question, serves as a model for transit programs throughout the Nation. They also have the lowest cost-per-new-rider index out of all of the projects funded by the Federal Transit Administration. I am very proud of the accomplishments Metro has enjoyed and I want to commend their efforts.

Regarding the Interstate Commerce Commission, the Senate added \$30.7 million for the continuation of the ICC, rejecting the House's position that called for its elimination. It was not an

issue during the conference. The Senate position assumes a staffing reduction of one-third, a streamlining of the Commission and additional ramifications of reform legislation that has been recently enacted into law. I want to point out that this year, Congress has done more for the deregulation of the trucking industry than any other year since 1980, instituting many of the reforms that I have been advocating since many days in the Texas Legislature.

Mr. Speaker, there were other issues that the conference committee considered such as the 13(c) issue, which is an issue that affects the prompt obligation of funds for transit projects. The House position was strong language designed to avoid unnecessary delays of transit projects by the Department of Labor. The conference decided to accept a compromise amendment that does little to help the problem. Hopefully, the committee will be able to address this problem in a much more responsible manner next year.

Again, I want to thank my colleagues on the committee for their hard work, and the staff's time and effort, and I urge all Members to support this conference report.

□ 1110

Mr. WOLF. Mr. Speaker, I yield 3 minutes to the gentleman from Colorado [Mr. HEFLEY] who has worked so hard on this issue with regard to the ICC.

Mr. HEFLEY. Mr. Speaker, I want to comment on the funding included in the conference report for the Interstate Commerce Commission.

As has already been noted, the conference report before us includes \$30 million for the Interstate Commerce Commission, and this is a 30-percent cut below previous funding levels. Contrary to some of the accounts, however, the funding level does not reflect the position the House took last June when it voted to eliminate the ICC, eliminate, do away with, kill off, never see again. We wanted to get rid of the ICC, and it was a relatively overwhelming vote in the House of Representatives, and I understand compromise, and I understand the Senate did not share our sentiments as strongly, but a 70-percent funding does not equal zero funding. What this cut does represent is a desperate effort by some Members, and particularly those in the other body, to save the Interstate Commerce Commission. They think by throwing us a bone in this case, in this case tariff filing requirements for truckers, they can save the commission that has been targeted for elimination by every major taxpayer group in the country. Speaking for myself, I am not satisfied with the offering. While I support eliminating the tariff filing, it is a reform that I have sponsored and worked

on for the last 8 years, and the compromise continues to fund a commission whose very existence should really be the focus to our debate.

Let us be perfectly clear. The ICC apologists do not support eliminating rate filing for motor carriers. They did not support it when the House passed the Motor Carrier Act in 1980. They refused to consider it last year when we passed the undercharge legislation. Even after it became clear this mindless regulation had cost Americans over \$30 billion in attorneys and back charges, and could do the same in the future, these Members dug in their heels and said, "No." Today they offer to eliminate the tariff filing, not as a good government reform, I think, but as a sacrifice to save the ICC. It may work; it may not work. But I want everyone to understand that next year I will be back on the House floor fighting to eliminate this unnecessary commission.

Those that were terribly concerned that we were too precipitous this year with our efforts to try to eliminate the commission so drastically said it ought to be done in a more reasoned way. Well, this year gives us a reasoned way to do this, so work with us, and let us try to get this thing done in an appropriate way for next year.

Mr. Speaker, there is an unbreakable law in Washington which says, "If you give somebody a job and a title, they'll find something to do." That is the position of the ICC today. Fourteen years ago Congress took away most of their responsibilities. Since then the ICC has been busy filling up time and space, publishing little manuals, scraping together some turf. Today we are going to eliminate the single largest remaining responsibility of the ICC, and I think that is good, but how will the ICC respond? As they have in the past, new responsibilities will be discovered.

In my mind the choice is clear. Either we eliminate the ICC outright or we wait and watch as the commission rebuilds its turf and continues to waste taxpayers money. That is what it has done for 107 years, and that is what we will do again if we give it the opportunity.

Mr. CARR of Michigan. Mr. Speaker, I yield 2 minutes to the gentleman from Rhode Island [Mr. REED].

Mr. REED. Mr. Speaker, I rise in strong support of this legislation and also to pay tribute to the extraordinary effort of the gentleman from Michigan [Mr. CARR] and the ranking member, and gentleman from Virginia [Mr. WOLF], and all the members of the subcommittee who have done a great service to this Nation and, in particular, an extraordinary service to the State of Rhode Island. Because of the contemplated electrification of the Northeast corridor by Amtrak, our freight rail system out of Quonset Point and Davisville literally was in

jeopardy of being strangled, and that would have caused the State the inability to develop one of the, we hope, premier ports in the Northeast at Quonset Point and Davisville. I brought my concerns to the gentleman from Michigan [Mr. CARR]. He listened, and not only did he listen, but he also came up to Quonset Point, Davisville, along with the gentleman from Texas [Mr. DELAY] and the gentleman from Texas [Mr. COLEMAN]. Their individual observations confirmed what we were saying, and through their efforts we were able to get for the first time Federal assistance to reconstruct and rebuild our freight rail system out of Quonset Point and Davisville to give Rhode Island a chance to rebuild its economy. This is an extraordinary effort on behalf of Mr. CARR and his colleagues. It would not have happened without him because he took a personal interest in it, and this is an example of the kind of concern he shows not just for his own constituents, but for the Nation overall, and I know he will be showing that same concern in the other body in the next few months. I want to thank him, thank all the Members, for what they have done and also thank the staff, particularly Rich Efford who unfailingly responded to all our concerns and questions.

So, Mr. Speaker, on behalf of the State of Rhode Island and my constituents I say, "Thank you, Mr. Chairman, and good luck."

Mr. WOLF. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Speaker, I thank the gentleman from Virginia [Mr. WOLF] for yielding this time to me.

Mr. Speaker, I rise in somewhat reluctant opposition because it seems as though everybody who has talked here is very much in favor of this legislation, and I have a lot of respect for our ranking member who has done so much, as has the chairman, I think, in trying to take care of that situation in West Virginia. But what we have here is, No. 1, a waiver of the 3-day rule so that people such as myself and, I think, a lot of Members of this Congress have not had the opportunity to carefully review this conference report and, thus, to be assured that this legislation is as good as a lot of people who have spoken think it is. From what little review my staff has been able to make, what we have is \$350 million going for these "surface transportation projects" and roughly \$44 million going to West Virginia, \$46 million going to Michigan. That is over 25 percent, and then five other States, all of whom were represented, I understand, by conferees who come from those States, divvying up another \$85 million.

□ 1120

So 50 percent of all the funds is going to some seven States. By contrast, if

the \$350 million were to be distributed by the statutory formula so that all States would share—and certainly all States have programs that are very important to those States—then even most of those States that are receiving funds under this conference report would get more than the amount of money they are getting under the circumstances we have here. Certainly, that is not so as far as West Virginia and Michigan are concerned. Those two States walk off with 25 percent of the appropriations. And probably that is not true of the other five States that also pick up a disproportionate 25 percent of the total \$350 million appropriation. But the rest of the States are the ones that, at least in this distribution, come out being very much shorted. That is not the way to run the Congress, I believe.

In addition, we have to recognize what we have here. What we are doing here, as I understand it, we are using general funds, \$350 million of general funds. That is peanuts, I suppose one might say, in \$1.5 trillion annual budget account. But, by gosh, when we do this over and over and over again, we are talking about billions, and that is sort of big money back in Illinois.

I do not think we have to do this. We can follow the statutory formula for the distribution of highway gas tax funds. We can just simply pay this money in accordance with that formula and distribute it by the formula. That is, at least fair if we insist in passing out this added largesse—these special projects, which are over and above the 6-year 1992-97 \$122 billion of transportation appropriations.

I do not think, therefore, that I can say this is sound legislation. It's just more profligate spending—money we have to borrow from our children and grandchildren. We're just that much deeper in debt. I am not going to ask for a vote. This bill will pass even with or without a vote. I am not trying to make a Federal case out of it, but I guess it is a Federal case. I just do not think this is the way we ought to be operating. When I see things like this, I know the people are better off when Congress isn't in session.

Mr. WOLF. Mr. Speaker, I yield 3 minutes to my last speaker, the gentleman from Indiana [Mr. MYERS].

Mr. MYERS of Indiana. Mr. Speaker, I thank the gentleman from Virginia for yielding me the time.

Mr. Speaker, I thank Chairman CARR and my friend, the gentleman from Virginia, [Mr. WOLF] as well as the other members of the committee and the staff, for the attention they have given the Indiana projects over the years. I hope that next year they will continue to remember those Indiana projects. They are, as some people might say, out in the far Midwest. But I do thank them for the attention they have given to the Indiana projects.

Mr. Speaker, I rise with somewhat of a question. It has come to my attention through the Indianapolis Center for Air Traffic Controllers that the equipment they are using to take care of and handle the increasing flow of traffic is still antiquated, that the most up-to-date equipment is not available to them, and that the trust account is not being used.

Is that because it is included in the budget restraints? The trust account for the airport and airways fund is still available, is it not? Can anyone tell me why we are unable to fund some of the updating and upgrading of equipment especially?

They do a great job with the equipment they have, but they tell me they could do a better job if they had the more updated, sophisticated equipment.

Mr. CARR of Michigan. Mr. Speaker, will the gentleman yield?

Mr. MYERS of Indiana. I yield to my chairman for an answer.

Mr. CARR of Michigan. Mr. Speaker, I would answer by saying it really is not a problem of budget constraints. There have been serious development problems in the airway systems modernization. There have been problems and delays and cost overruns in the AAS systems and the other associated subsystems to the modernization. But these problems are getting worked out. I believe we will be back on track, although there has been much delay from where we had hoped to be at this time. It is not, I would tell the gentleman, a matter of budget constraints.

Mr. MYERS of Indiana. Mr. Speaker, I thank the gentleman for his response. We all use the airways frequently, and a lot of business people have to travel frequently. We expect the best and we get the best, I think, in air traffic controllers, but if there is better equipment available, it could make safety devices more available to the air traffic controllers and those who use the airways, and I think we should have it.

I appreciate the response here. As you go to the other body and we stay here in this body, we will try to work together, I hope, next year, to improve safety in the airways. Again I thank the gentleman for what the committee has done for us in Indiana.

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman from Virginia [Mr. WOLF] has 1 minute remaining.

Mr. WOLF. Mr. Speaker, I yield back the balance of my time.

Mr. CARR of Michigan. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore. The gentleman from Michigan [Mr. CARR] has 9 minutes remaining.

Mr. CARR of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I merely want to take this time to thank all of my colleagues

for their kind words of tribute. It has been a pleasure working not only with the subcommittee but with each and every Member of this House.

We have tried to lead by example, and I would say that if someone really wants to pay tribute to the work I have contributed, I hope that the subcommittee will continue to refine and perfect the initiative that we started two years ago to make sure that decisions are based on economic merit, and that we reduce the politics in decision-making when we make investments of the taxpayers' hard-earned dollars. We must respect the hard work that earned those dollars that are given to us by way of taxes and returned by way of investment.

So if anyone is really interested in a tribute, they will continue the process of trying to put merit before politics when the committee makes its decisions.

I also want to say that it has been a tremendous pleasure working with the Members of this body. I hear and read, as every American does, the criticisms of the Congress and the President, and I have to say that in the years that I have been privileged to serve, I feel there are no finer men and women serving our country than those who serve in this body, the other body, and the executive agencies. I think sometimes, even though it is an election year and things get said, it also needs to be said that we ought to tone down the volume a little bit.

The gentleman from Virginia [Mr. WOLF] and I have had a tremendous relationship, a working relationship, a bipartisan relationship, in operating this committee, and it is due to his efforts that we have been successful. We have tried to do the best we could for all Americans. There are no Republican roads or Democratic bridges. There are no liberal ports or conservative airports. We serve America, and it seems to me that we have gotten ourselves a little bit into some petty partisan bickering from time to time, and I would hope that in the years ahead we could tone down that volume because the American people fundamentally, first and foremost, expect us to be listening to them and not be so concerned about listening to one another.

□ 1130

If we put the American people first, we are going to make sure that their priorities are in front of us, and that we carry out our responsibility to this great country of ours.

I want to thank all my colleagues for the kindnesses that they have contributed to my career. I apologize to anyone who I unintentionally offended in the heat of battle. But this has been one terrific experience.

Mr. BERMAN. Mr. Speaker, I rise today in support of the conference agreement on H.R. 4556, appropriations for the Department of

Transportation and related agencies for fiscal year 1995.

I want to draw special attention to the Federal Transit Administration's national planning and research account. The House bill provided approximately \$26 million for the various research and development programs and activities funded by this account, including the advanced transportation systems program authorized in section 6071 of ISTEA. The Senate bill transferred \$10 million from section 9 activities to the national planning and research account, thus increasing the total appropriation for that account to a level of approximately \$36 million. This \$10 million increase was sought and secured for the specific purpose of ensuring that certain projects under the advanced transportation systems program are funded at an adequate level. The conferees reduced the transfer to \$8 million, but the intent remains the same. I expect that the FTA will recognize this and act accordingly.

Mr. Speaker, the advanced transportation Systems program provides vital funding to industry-led consortia, including the California-based CALSTART, engaged in the development of various clean transit technologies. These technologies will help us improve air quality, reduce our dependence on oil imports, increase our global competitiveness and create new high quality jobs. I commend my colleagues for recognizing the importance of this program, and I urge them to join me in supporting passage of this measure.

Ms. FURSE. Mr. Speaker, I rise today in strong support of the conference report on H.R. 4556 which includes important funding for transportation projects across America for the 1995 fiscal year.

I want to take a moment and thank Chairman CARR for all his efforts on behalf of a project which is central to my region's future, Westside Light Rail. This conference report includes \$98 million for the Westside Light Rail project in my district that will extend from Downtown Portland to Downtown Hillsboro. Oregon's unique land-use laws ensure that growth is properly managed and the quality of life all Oregonians have come to enjoy is protected. Westside Light Rail is key to this planned future in my region of the country, and this conference report marks the second year in a row that this project has been funded at record levels.

As one of my top priorities in Congress, I have extolled the virtues of Westside Light Rail to almost anyone willing to listen. I want to express my most sincere thanks to my friend Senator HATFIELD for all his efforts on the Senate side to advance the Westside project over the past 2 years, and making the project a reality before I came to Congress. My friends RON WYDEN and PETE DEFAZIO have worked with me on ensuring that Westside stays on track. In fact, the entire delegation has been supportive and I want to extend my personal thanks to all these people.

I wish Chairman CARR luck in his future endeavors, and urge all my colleagues to support this important conference report.

Mr. PORTER. Mr. Speaker, I am pleased that the subcommittee again used the investment criteria written last year to judge and select new projects to be funded in this bill. The use of these standards assures taxpayers the best projects for their dollars.

I am also very pleased that the subcommittee included funding for Metra, the commuter rail division of the Regional Transportation Authority of northeast Illinois, of \$2.5 million for the Wisconsin Central. This is a new commuter rail project that Metra is undertaking to serve the northwest suburbs of Chicago. In fact, the Wisconsin Central will be the first new commuter rail line in the Chicago area since 1926. This rail line will serve a significant population, reduce traffic congestion, benefit the environment and will be one of the most cost-effective commuter rail operations in the country.

Over the past 2 years, I have had the opportunity to work with Metra on the Wisconsin Central rail line, which will provide commuter service to downtown Chicago for many of my constituents.

I am pleased to be able to say that the bulk of the funding for this project has already been raised by State and local efforts and, as a result, only a small amount of Federal funding has been requested.

The \$2.5 million appropriation included in the bill will allow Metra to begin initial service on the Wisconsin Central in the spring of 1996—and will allow Metra to initiate Phase II improvements—such as additional tracks in critical areas to decrease travel time and additional trains during rush hour to better serve the reverse commute.

One of the truly outstanding members of the Appropriations Committee is the ranking member of the Transportation Subcommittee, my friend and colleague, FRANK WOLF of Virginia. He has always addressed projects with an eye to keeping spending under control and working responsibly to find those which are most cost effective and worthy of support. I appreciate his strong support for the Wisconsin Central project and his efforts to ensure that this bill include equitable funding levels for all project named in both the House and Senate versions of the bill. I know of the difficult budgetary constraints facing the subcommittee, and I thank the subcommittee for their hard work on this bill.

Mr. COLEMAN. Mr. Speaker, I am pleased to rise to express my strong support for the conference report accompanying H.R. 4556, the Transportation appropriations bill for fiscal year 1995, and commend Chairman BOB CARR for his leadership in crafting this agreement. His fairness and diligence has produced an important work product and established an important precedent in the public policy arena. I also want to thank my colleagues on the committee on both sides of the aisle for their contributions to the bill, as well as the professional and associate staff members.

The conference agreement appropriates approximately \$14 billion for critical transportation issues in fiscal year 1995, and funds the important work of the Department of Transportation and its agencies which include the Coast Guard, Federal Aviation Administration, Federal Highway Administration, Federal Railroad Administration, Federal Transit Administration, Research and Special Programs Administration, and related agencies.

The agreement reflects the fact that many difficult choices had to be made by both bodies. While Members may have specific concerns about funding priorities, it is important to

remember the process which brought us to this point. Both Chambers worked their will through their respective appropriations procedures. The House marks reflect hours of committees hearings and review of economically based investment criteria for consideration of special funding requests by States and local communities. This will provide much needed jobs across the country while making important infrastructure improvements, contributing to environmental cleanup, and helping in the war against drugs.

I appreciate the consideration given by the conference to those projects important to the Southwest border region, the State of Texas, and my district of El Paso. One critical piece of conference report language relates to need for transportation infrastructure funding along our country's northern and southern border regions, especially as the United States, Mexico, and Canada move to implement the North American Free-Trade Agreement. Other provisions will address mass transit projects in Texas, including important bus projects in El Paso. The purchase of alternative fuel buses in my city will help address environmental concerns in my community, and a new transit facility in El Paso's Lower Valley will aid bus commuters and economic development in this historic area.

I urge my colleagues to adopt this conference report.

Mr. BEREUTER. Mr. Speaker, I rise in strong support of the conference report. This Member is pleased that this conference report includes funding for a feasibility and corridor study for a proposed south and east bypass for Lincoln, NE, by examining alternative routes that at this point are exclusively outside the city limits.

This Member thanks the distinguished gentleman from Michigan [Mr. CARR], the chairman of the House Transportation Appropriations Subcommittee, and the distinguished gentleman from Virginia [Mr. WOLF], the ranking member of the subcommittee, and all of the conferees for their help in funding this important project.

While this bypass study is critically needed, the City of Lincoln's Metropolitan Planning Organization receives only about \$190,000 per year for planning activities. Clearly, a study of this magnitude would require additional funding in order to be undertaken.

The current transportation network in Lincoln, NE, a city of nearly 200,000 inhabitants, is under financial stress and a new approach must be studied to implement a new transportation system. The approach which seems to make the most sense is the completion of a circumferential roadway system by the development of highway segments south and east of the city. This possible circumferential roadway would help meet current needs and accommodate future growth before such development of these highway corridors becomes prohibitively expensive. A beltway highway for Lincoln has been discussed for more than three decades and the need to implement such a plan becomes more apparent each year.

A recent city task force looking at the possibility of the beltway determined that the development of such a system would be a crucial component of the regional transportation net-

work which would accomplish the goals of moving traffic around congested urban areas and providing for an expanded capacity of the urban system.

In addition, a truck route study was recently prepared for the city of Lincoln. One of the conclusions reached by the study was that a very key element, if not the most important element of the Lincoln truck study implementation plan is construction and completion of the East-South Bypass link. That study found this proposed project would complete the beltway system for the city of Lincoln, thus enabling major amounts of regional traffic to bypass the major urban development areas of Lincoln.

This Member would also like to stress that he has received written assurances from the city of Lincoln and the Nebraska Department of Roads that the current National Highway System designations are surrogate or temporary designations that will be replaced by new route designations when the bypass study identifies the desired route locations. This Member is voting for this legislation with that understanding.

This Member would further stress that the eventual corridor designation must be exclusively outside the city limits of the city of Lincoln. Although the study will determine the optimal corridor zone, this Member would like to reiterate what he stated before the Committee on Public Works' Subcommittee on Surface Transportation on March 8, 1994. This Member believes it would be preferable to locate the eastern segment on or between 96th and 134th Street and the southern segment on or between Yankee Hill Road and Saltillo Road. With respect to the southern route, this Member believes the corridor should be located no farther north than Yankee Hill Road and possibly south of Saltillo Road.

This Member would also like to express his appreciation for the continued support for the proposed bridge between the Newcastle, Nebraska area and Vermillion, SD. For six decades, the prospect of constructing a bridge in the Newcastle-Vermillion area has enjoyed widespread support. An impressive coalition of community organizations, local governments, businesses, and individuals from both Nebraska and South Dakota has joined together in support of this bridge.

Such a bi-State consensus is possible because the benefits resulting from the bridge's construction are so clear to all. These benefits include increased economic development, enhanced recreational opportunities, improved access to health care, and a reduction in transportation costs. Also, the construction of this bridge will improve the general quality of life for the area's residents by creating additional opportunities for higher education and cultural and social activities.

Due to the current lack of a bridge in this region, communities in northeast Nebraska and southeast South Dakota—including Vermillion, SD, the location of the University of South Dakota—have remained isolated from each other despite their proximity. As a result, economic activity in the region has been hampered and labor and commerce options have been limited. Clearly, the completion of this bridge across the Missouri River will be a significant aid in attracting new businesses to the area.

Mr. Chairman, this Member is convinced that this bridge, when completed, will serve as

a connector for one of two major north-south routes across Nebraska. In addition, to act as a connector it will first require a new highway connection between Wayne, NE, and the bridge; and second, it will require an upgrading of the highway between Wayne and Norfolk, NE to connect to U.S. 81 which is currently being upgraded. This will mean that from the Kansas border, near Chester, NE, there will be a direct link across Nebraska to Vermillion, SD, and I-29 to points north, northeast, and northwest.

This Member would also like to thank the committee and subcommittee for continuing to recognize the need for a bridge between Niobrara, NE, and Springfield, SD. Initial authorization for such a bridge is contained in a provision of Public Law 100-17, the Surface Transportation and Uniform Relocation Assistance Act of 1987. An authorization of \$4.7 million was also included in the Intermodal Surface Transportation Efficiency Act of 1991. However, this amount was less than originally requested and less than necessary to complete the project.

Because of redistricting, the Nebraska portion of this project is now in the district of the distinguished gentleman from Nebraska [Mr. BARRETT]. However, due to this Member's previous efforts and the tremendous need for this bridge, this Member remains very supportive of this project.

The proposed Niobrara-Springfield bridge has enjoyed widespread support from residents on both sides of the river as well as local and State officials. Since 1927, efforts have been made to construct this much needed bridge. The issue became even more critical in the mid-1980's with the abandonment of ferry service. As a result of a previous legislative initiative, the Department of Transportation directed the Nebraska Department of Roads and the South Dakota Department of Transportation to conduct a study to determine the feasibility of reinstituting ferry service. The report, which was completed in December 1987, estimated that the car ferry would cost approximately \$5 million to \$6 million. Because of the Department of Roads' analysis that a bridge could be built for far less than was previously discussed, the bridge option became more attractive.

Motorists, farmers, and businesspeople would benefit greatly from the reduced travel distance if this bridge is built. Also, because of the beneficial impact this bridge would have on the Indian tribes in the area, the Bureau of Indian Affairs has expressed its support for the project. For example, by reducing the driving time from the Santee Sioux reservation to the Indian Health Service facility in Wagner, SD, the bridge would play an important role in improving medical care for the tribes served by the facility.

This Member would also like to thank his distinguished colleague from South Dakota [Mr. JOHNSON] for his outstanding efforts and cooperation with this Member on behalf of these interstate bridge projects. The completion of these bridges will play an important role in facilitating a mutually positive interdependence between communities in Nebraska and South Dakota. Mr. JOHNSON deserves recognition for the important role he has played in bringing this goal closer to reality. It has been

a pleasure to continue the close and good cooperation on this and other bistate projects and issues.

Again, Mr. Speaker, this Member would like to thank the distinguished gentleman from Michigan [Mr. CARR], the chairman of the House Transportation Appropriations Subcommittee, and the distinguished gentleman from Virginia [Mr. WOLF], the ranking member of the subcommittee, and all of the conferees for their cooperation in including these important projects in this conference report.

Mr. BUYER. Mr. Speaker, I rise in support of the transportation appropriations conference report. I am pleased the committee has included \$2.475 million in funding for the Hoosier Heartland Corridor.

The Hoosier Heartland Industrial Corridor was authorized by the Intermodal Surface Transportation Efficiency Act as a high priority congressional corridor. This project will link Fort Wayne to Lafayette by a four-lane highway. It is one of the top priorities of the Indiana Department of Transportation and enjoys broad bipartisan support in the communities all along the project route.

The Hoosier Heartland Corridor will become a vital link in the economic development of north central Indiana. The corridor is a major delivery route for manufacturers and producers of goods. Tractor trailers use the road as well as passenger cars and slow-moving farm equipment. In addition, many portions of the existing configuration of the highway are narrow, two-lane, with narrow shoulders and dropoffs. The State of Indiana has indicated that there will be a 50-percent reduction in accidents that will lead to savings both in terms of personal injuries and property damage.

I appreciate the hard work of Congressman WOLF and Congressman CARR in producing this conference report. This funding is an important step in keeping this project on track. Although I recognize that the committee has limited resources available, I am grateful that the members recognize the significance of this project to north central Indiana.

Mr. CARR of Michigan. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

#### STATE AND LOCAL GOVERNMENT INTERSTATE WASTE CONTROL ACT OF 1994

Mr. BONIOR. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 551 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 551

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 4779) to amend the Solid Waste Disposal Act to authorize local governments and Governors to restrict receipt of out-of-State municipal solid waste, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce. After general debate the bill shall be considered for amendment under the five-minute rule for a period not to exceed four hours (excluding time consumed by recorded votes and proceedings incidental thereto). It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Energy and Commerce now printed in the bill. Each section of the committee amendment in the nature of a substitute shall be considered as read. Any amendment offered by the chairman of the Committee on Energy and Commerce or his designee may amend portions of the bill not yet read for amendment. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereof to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. BONIOR] is recognized for 1 hour.

Mr. BONIOR. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, as we head into the 21st century, one of the biggest challenges our State and local communities face is the question of how we deal with—and how we dispose of—solid waste.

It is one of the biggest health challenges we face.

It is one of the biggest economic challenges we face.

And it is one of the biggest environmental challenges we face.

But one thing it is not: It is not a small problem.

Not when you consider that every single year, America generates about 200 million tons of solid waste—200 million tons.

In case you are wondering, that works out to about 1,600 pounds of solid waste for every man, woman, and child in the United States today, 1,600 pounds every single year.

If you have ever wondered why people talk about the "art of solid waste management," that is the reason why. It is because we have a ceaseless, relentless, large-volume supply of garbage, and a limited amount of space to put it all.

That is why it is in all of our interests to deal with this problem.

And fortunately, over the last 20 or 30 years, many State and local communities have accepted responsibility for dealing with this problem.

Working together with the private sector and local residents, many State and local communities have come up with innovative action plans and strategies to deal with waste management, to educate the public, to encourage reducing, reusing, and recycling, and to reduce the amount of solid waste being dumped in our landfills today.

And it is working. It has had an enormous effect. Anybody who has ever seen their street lined with green or blue recycling bins early in the morning knows that we are making progress.

But today, many of our State and local communities that have accepted responsibility for dealing with this issue face a new problem. They are being forced—many of them against their will—to accept trash from places that have not taken responsibility for dealing with the problem.

They are being forced to accept out-of-State waste—and in some cases out-of-country waste—from places that have not made the same priority of reducing, reusing, and recycling.

Again, this is not a small problem.

Of the 200 million tons of solid waste produced in this country in 1992, 19 million tons—one-tenth of the total amount—crossed State lines.

Some of this waste found its way to communities that were more than happy, for reasons having to do with job creation, tax revenues, or other benefits, to take it in.

But most of this waste found its way, unwanted, uninvited, and often unlimited, into communities that had sacrificed year after year to reduce the flow of garbage into their own landfills, because they say the continuing burgeoning of their local landfill as a health threat and an environmental threat to the local community.

If you are wondering why they cannot just say no, well there is a very simple reason.

Because in 1992, the Supreme Court, in one of their lesser known but more damaging decisions to the quality of life in local communities, ruled that local communities had no control over the waste that was coming into their communities.

The Supreme Court ruled that local communities had no say.

If some local landfill owner wanted to make a profit by shipping in waste from a thousand miles away, the Supreme Court ruled that that was their

right under the Commerce Clause—no matter how much the local community protested.

In that 1992 decision, the Court then looked in our direction, and said it was up to us to restore the rights of local communities to have a say in this matter.

In short, Mr. Speaker, that is why we are here today.

The bill before us will restore local control.

It will give local communities and local governments the ability to decide whether or not to accept out-of-State trash into their communities, to control the garbage that is being trucked on their streets and dumped in their landfills.

Let me be clear, Mr. Speaker: This is not a radical bill.

It is a balanced, reasonable approach that has made a priority of considering all sides in this debate.

Let me tell you what it does not do. It does not place an immediate, undue burden on local businesses.

And above all, it does not prohibit communities from taking in waste if they want to.

It simply says that local communities should be able to decide whether or not any new landfills should be allowed to accept waste in their community.

It simply gives local communities a say in an issue that affects the health, the environment, and the quality of life of residents and businesses in their communities.

And it does so in a responsible way, by phasing in this responsibility over a sufficient period of time to give affected States, businesses, and local communities time to adjust.

Mr. Speaker, hundreds of thousands of communities in America today are trying to take responsibility for improving the way they handle solid waste.

States like Michigan and many others have made important strides toward making reducing, reusing, and recycling a priority. We have reduced our need for landfills. And we should not be forced to accept trash from places that have not.

This is a fair bill. This is a bipartisan bill. This is a fair and open rule. And this is a responsible approach. Because it gives all parties time to adjust while restoring the rights of State and local communities to control the problems of solid waste.

Mr. Speaker, House Resolution 551 is a simple, open rule for the consideration of H.R. 4779, the State and Local Government Interstate Waste Control Act of 1994.

The rule provides 1 hour of general debate, equally divided between the chairman and ranking minority member of the Energy and Commerce Committee.

The rule makes in order the Energy and Commerce Committee amendment

in the nature of a substitute now printed in the bill as an original bill for the purpose of amendment.

The rule limits to 4 hours the time for consideration of the bill for amendment under the 5-minute rule.

The rule also provides that an amendment to be offered by Representative DINGELL may amend portions of the bill not yet read for amendment.

Finally, the rule provides one motion to recommit the bill.

Mr. speaker, this is a simple, open rule—and I urge my colleagues to support it.

Mr. Speaker, I would mention at this time the outstanding job that has been done on this bill by my colleagues, particularly the gentleman from the State of Washington [Mr. SWIFT], who we will dearly miss in this next Congress, who has labored to put this together along with the gentleman from Michigan [Mr. DINGELL], the chairman of the committee, who has taken an active role in this issue and participated in crafting a bill we can live with.

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The gentleman from Virginia [Mr. BOUCHER], who has been a consistent, strong supporter of this legislation over the years and I had the pleasure to work with and who cares about our health and environment in a very special way; the gentleman from Indiana [Mr. SHARP], from my neighboring State, who has worked tirelessly on this issue, the gentleman from Michigan [Mr. UPTON], from my home State, has also labored, as well as the gentleman from Ohio [Mr. OXLEY] and the gentleman from Pennsylvania [Mr. GREENWOOD], an articulate spokesman on this issue, and the gentleman from Ohio [Mr. GILLMOR], my friend.

All of these gentlemen deserve our gratitude for the work that they have put in, the hours they have put in on a difficult issue. It has taken us years to get here. I am glad we are here, and I praise their work and look forward to working with them to make this a reality and making this law.

Mr. Speaker, I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join Mr. BONIOR in supporting this open rule. It is not often that the Energy and Commerce Committee requests an open rule for legislation under their jurisdiction, and I am especially pleased to have an open rule for this particular bill. The State and Local Government Interstate Waste Control Act has been surrounded with controversy, and it is especially important to allow all Members the opportunity to offer amendments as this measure could have a severe impact on individual districts and States. Although the rule does impose a 4-hour time limitation for the consideration of amendments, I find this acceptable

in view of the limited amount of time we have left before adjournment.

I would like to commend Chairman DINGELL, CARLOS MOORHEAD, AL SWIFT, MIKE OXLEY, RICK BOUCHER, and everyone else who has worked so diligently over the past year and a half to put together this bill. It offers, in my opinion, an affirmative response to the various court decisions regarding whether States may impose restrictions on the importation of municipal solid waste.

I urge adoption of this rule so we can proceed with the consideration of this important piece of legislation.

OPEN VERSUS RESTRICTIVE RULES 95TH-103D CONG.

Congress (years)	Total rules granted <sup>1</sup>	Open rules		Restrictive rules	
		Number	Percent <sup>2</sup>	Number	Percent <sup>3</sup>
95th (1977-78)	211	179	85	32	15
96th (1979-80)	214	161	75	53	25
97th (1981-82)	120	90	75	30	25
98th (1983-84)	155	105	68	50	32
99th (1985-86)	115	65	57	50	43
100th (1987-88)	123	66	54	57	46
101st (1989-90)	104	47	45	57	55
102d (1991-92)	109	37	34	72	66
103d (1993-94)	99	31	31	68	69

<sup>1</sup>Total rules counted are all order of business resolutions reported from the Rules Committee which provide for the initial consideration of legislation, except rules on appropriations bills which only waive points of order. Original jurisdiction measures reported as privileged are also not counted.

<sup>2</sup>Open rules are those which permit any Member to offer any germane amendment to a measure so long as it is otherwise in compliance with the rules of the House. The parenthetical percentages are open rules as a percent of total rules granted.

<sup>3</sup>Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules, as well as completely closed rule, and rules providing for consideration in the House as opposed to the Committee of the Whole. The parenthetical percentages are restrictive rules as a percent of total rules granted.

Sources: "Rules Committee Calendars & Surveys of Activities," 95th-102d Cong.; "Notices of Action Taken," Committee on Rules, 103d Cong., through Sept. 27, 1994.

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 58, Feb. 2, 1993	MC	H.R. 1: Family and medical leave	30 (D-5; R-25)	3 (D-0; R-3)	PQ. 246-176. A. 259-164 (Feb. 3, 1993).
H. Res. 59, Feb. 3, 1993	MC	H.R. 2: National Voter Registration Act	19 (D-1; R-18)	1 (D-0; R-1)	PQ. 248-171. A. 249-170 (Feb. 4, 1993).
H. Res. 103, Feb. 23, 1993	C	H.R. 920: Unemployment compensation	7 (D-2; R-5)	0 (D-0; R-0)	PQ. 243-172. A. 237-178 (Feb. 24, 1993).
H. Res. 106, Mar. 2, 1993	MC	H.R. 20: Hatch Act amendments	9 (D-1; R-8)	3 (D-0; R-3)	PQ. 248-166. A. 249-163 (Mar. 3, 1993).
H. Res. 119, Mar. 9, 1993	MC	H.R. 4: NIH Reauthorization Act of 1993	13 (6-4; R-9)	8 (D-3; R-5)	PQ. 247-170. A. 248-170 (Mar. 10, 1993).
H. Res. 132, Mar. 17, 1993	MC	H.R. 1335: Emergency supplemental Appropriations	37 (D-8; R-29)	1 (not submitted) (D-1; R-0)	A. 240-185 (Mar. 18, 1993).
H. Res. 133, Mar. 17, 1993	MC	H. Con. Res. 64: Budget resolution	14 (D-2; R-12)	4 (1-D not submitted) (D-2; R-2)	PQ. 250-172. A. 251-172 (Mar. 18, 1993).
H. Res. 138, Mar. 23, 1993	MC	H.R. 670: Family planning amendments	20 (D-8; R-12)	9 (D-4; R-5)	PQ. 252-164. A. 247-169 (Mar. 24, 1993).
H. Res. 147, Mar. 31, 1993	C	H.R. 1430: Increase Public debt limit	6 (D-1; R-5)	0 (D-0; R-0)	PQ. 244-168. A. 242-170 (Apr. 1, 1993).
H. Res. 149, Apr. 1, 1993	MC	H.R. 1578: Expedited Rescission Act of 1993	8 (D-1; R-7)	3 (D-1; R-2)	A. 212-208 (Apr. 28, 1993).
H. Res. 164, May 4, 1993	O	H.R. 820: Hate Competitiveness Act	NA	NA	A. Voice Vote (May 5, 1993).
H. Res. 171, May 18, 1993	O	H.R. 873: Gallatin Range Act of 1993	NA	NA	A. Voice Vote (May 20, 1993).
H. Res. 172, May 18, 1993	O	H.R. 1159: Passenger Vessel Safety Act	NA	NA	A. 308-0 (May 24, 1993).
H. Res. 173, May 18, 1993	MC	S.J. Res. 45: United States forces in Somalia	6 (D-1; R-5)	6 (D-1; R-5)	A. Voice Vote (May 20, 1993).
H. Res. 183, May 25, 1993	O	H.R. 2244: 2d supplemental appropriations	NA	NA	A. 251-174 (May 26, 1993).
H. Res. 186, May 27, 1993	MC	H.R. 2264: Omnibus budget reconciliation	51 (D-19; R-32)	8 (D-7; R-1)	PQ. 252-178. A. 236-194 (May 27, 1993).
H. Res. 192, June 9, 1993	MC	H.R. 2348: Legislative branch appropriations	50 (D-6; R-44)	6 (D-3; R-3)	PQ. 240-177. A. 226-185 (June 10, 1993).
H. Res. 193, June 10, 1993	O	H.R. 2200: NASA authorization	NA	NA	A. Voice Vote (June 14, 1993).
H. Res. 195, June 14, 1993	MC	H.R. 5: Striker replacement	7 (D-4; R-3)	2 (D-1; R-1)	A. 244-176 (June 15, 1993).
H. Res. 197, June 15, 1993	MC	H.R. 2333: State Department, H.R. 2404: Foreign aid	53 (D-20; R-33)	27 (D-12; R-15)	A. 294-129 (June 16, 1993).
H. Res. 199, June 16, 1993	C	H.R. 1876: Ext. of "Fast Track"	NA	NA	A. Voice Vote (June 22, 1993).
H. Res. 200, June 16, 1993	MC	H.R. 2295: Foreign operations appropriations	33 (D-11; R-22)	5 (D-1; R-4)	A. 263-160 (June 17, 1993).
H. Res. 201, June 17, 1993	O	H.R. 2403: Treasury-postal appropriations	NA	NA	A. Voice Vote (June 17, 1993).
H. Res. 203, June 22, 1993	MO	H.R. 2445: Energy and Water appropriations	NA	NA	A. Voice Vote (June 23, 1993).
H. Res. 206, June 23, 1993	O	H.R. 2150: Coast Guard authorization	NA	NA	A. 401-0 (July 30, 1993).
H. Res. 217, July 14, 1993	MC	H.R. 2010: National Service Trust Act	NA	NA	A. 261-164 (July 21, 1993).
H. Res. 220, July 21, 1993	MC	H.R. 2667: Disaster assistance supplemental	14 (D-8; R-6)	2 (D-2; R-0)	PQ. 245-178. F. 205-216 (July 22, 1993).
H. Res. 226, July 23, 1993	MC	H.R. 2667: Disaster assistance supplemental	15 (D-8; R-7)	2 (D-2; R-0)	A. 224-205 (July 27, 1993).
H. Res. 229, July 28, 1993	MC	H.R. 2330: Intelligence Authority Act, fiscal year 1994	NA	NA	A. Voice Vote (Aug. 3, 1993).
H. Res. 230, July 28, 1993	O	H.R. 1964: Maritime Administration authority	NA	NA	A. Voice Vote (July 29, 1993).
H. Res. 246, Aug. 6, 1993	MC	H.R. 2401: National Defense authority	149 (D-109; R-40)	NA	A. 246-172 (Sept. 8, 1993).
H. Res. 248, Sept. 9, 1993	MC	H.R. 2401: National defense authorization	NA	NA	PQ. 237-169. A. 234-169 (Sept. 13, 1993).
H. Res. 250, Sept. 13, 1993	MC	H.R. 1340: RTO Completion Act	12 (D-3; R-9)	1 (D-1; R-0)	A. 213-191-1 (Sept. 14, 1993).
H. Res. 254, Sept. 22, 1993	MO	H.R. 2401: National Defense authorization	NA	91 (D-67; R-24)	A. 241-182 (Sept. 28, 1993).
H. Res. 262, Sept. 28, 1993	O	H.R. 1845: National Biological Survey Act	NA	NA	A. 238-188 (10/06/93).
H. Res. 264, Sept. 28, 1993	MC	H.R. 2351: Arts, humanities, museums	7 (D-0; R-7)	3 (D-0; R-3)	PQ. 240-185. A. 225-195 (Oct. 14, 1993).
H. Res. 265, Sept. 29, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D-1; R-2)	2 (D-1; R-1)	A. 239-150 (Oct. 15, 1993).
H. Res. 269, Oct. 6, 1993	MO	H.R. 2735: Aviation infrastructure investment	NA	NA	A. Voice Vote (Oct. 7, 1993).
H. Res. 273, Oct. 12, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D-1; R-2)	2 (D-1; R-1)	PQ. 235-187. F. 149-254 (Oct. 14, 1993).
H. Res. 274, Oct. 12, 1993	MC	H.R. 1804: Goals 2000 Educate America Act	15 (D-7; R-7; I-1)	10 (D-7; R-3)	A. Voice Vote (Oct. 13, 1993).
H. Res. 282, Oct. 20, 1993	C	H.J. Res. 281: Continuing appropriations through Oct. 28, 1993	NA	NA	A. Voice Vote (Oct. 21, 1993).
H. Res. 286, Oct. 27, 1993	O	H.R. 334: Lumber Recognition Act	NA	NA	A. Voice Vote (Oct. 28, 1993).
H. Res. 287, Oct. 27, 1993	C	H.J. Res. 283: Continuing appropriations resolution	1 (D-0; R-0)	0	A. 252-170 (Oct. 28, 1993).
H. Res. 289, Oct. 28, 1993	O	H.R. 2151: Maritime Security Act of 1993	NA	NA	A. Voice Vote (Nov. 3, 1993).
H. Res. 293, Nov. 4, 1993	MC	H. Con. Res. 170: Troop withdrawal Somalia	NA	NA	A. 390-8 (Nov. 8, 1993).
H. Res. 299, Nov. 8, 1993	MO	H.R. 1036: Employee Retirement Act-1993	2 (D-1; R-1)	NA	A. Voice Vote (Nov. 9, 1993).
H. Res. 302, Nov. 9, 1993	MC	H.R. 1025: Brady handgun bill	17 (D-6; R-11)	4 (D-1; R-3)	A. 238-182 (Nov. 10, 1993).
H. Res. 303, Nov. 9, 1993	O	H.R. 322: Mineral exploration	NA	NA	A. Voice Vote (Nov. 16, 1993).
H. Res. 304, Nov. 9, 1993	C	H.J. Res. 288: Further CR, FY 1994	NA	NA	NA
H. Res. 312, Nov. 17, 1993	MC	H.R. 3425: EPA Cabinet Status	27 (D-8; R-19)	9 (D-1; R-8)	F. 191-227 (Feb. 2, 1994).
H. Res. 313, Nov. 17, 1993	MC	H.R. 796: Freedom Access to Clinics	15 (D-9; R-6)	4 (D-1; R-3)	A. 233-192 (Nov. 18, 1993).
H. Res. 314, Nov. 17, 1993	MC	H.R. 3351: Alt Methods Young Offenders	21 (D-7; R-14)	6 (D-3; R-3)	A. 238-179 (Nov. 19, 1993).
H. Res. 316, Nov. 19, 1993	C	H.R. 51: D.C. statehood bill	1 (D-1; R-0)	NA	A. 252-172 (Nov. 20, 1993).
H. Res. 319, Nov. 20, 1993	MC	H.R. 3: Campaign Finance Reform	35 (D-6; R-29)	1 (D-0; R-1)	A. 247-207 (Nov. 21, 1993).
H. Res. 320, Nov. 20, 1993	MC	H.R. 3400: Reinvesting Government	34 (D-15; R-19)	3 (D-3; R-0)	A. 247-183 (Nov. 22, 1993).
H. Res. 336, Feb. 2, 1994	MC	H.R. 3759: Emergency Supplemental Appropriations	14 (D-8; R-5; I-1)	5 (D-3; R-2)	PQ. 244-168. A. 342-65 (Feb. 3, 1994).
H. Res. 352, Feb. 8, 1994	MC	H.R. 811: Independent Counsel Act	27 (D-8; R-19)	10 (D-4; R-6)	PQ. 249-174. A. 242-174 (Feb. 9, 1994).
H. Res. 357, Feb. 9, 1994	MC	H.R. 3345: Federal Workforce Restructuring	3 (D-2; R-1)	2 (D-2; R-0)	A. 247-170 (Feb. 10, 1994).
H. Res. 366, Feb. 23, 1994	MC	H.R. 6: Improving America's Schools	NA	NA	A. VV (Feb. 24, 1994).
H. Res. 384, Mar. 9, 1994	MC	H. Con. Res. 218: Budget Resolution FY 1995-99	14 (D-5; R-9)	5 (D-3; R-2)	A. 245-171 (Mar. 10, 1994).
H. Res. 401, Apr. 12, 1994	MO	H.R. 4092: Violent Crime Control	180 (D-98; R-82)	68 (D-47; R-21)	A. 244-176 (Apr. 13, 1994).
H. Res. 410, Apr. 21, 1994	MO	H.R. 3221: Iraqi Claims Act	NA	NA	A. Voice Vote (Apr. 28, 1994).
H. Res. 414, Apr. 28, 1994	O	H.R. 3254: NSF Auth. Act	NA	NA	A. Voice Vote (May 3, 1994).
H. Res. 416, May 4, 1994	C	H.R. 4296: Assault Weapons Ban Act	7 (D-5; R-2)	0 (D-0; R-0)	A. 220-209 (May 5, 1994).
H. Res. 420, May 5, 1994	O	H.R. 2442: EDA Reauthorization	NA	NA	A. Voice Vote (May 10, 1994).
H. Res. 422, May 11, 1994	MO	H.R. 518: California Desert Protection	NA	NA	PQ. 245-172. A. 248-165 (May 17, 1994).
H. Res. 423, May 11, 1994	O	H.R. 2473: Montana Wilderness Act	NA	NA	A. Voice Vote (May 12, 1994).
H. Res. 428, May 17, 1994	MO	H.R. 2108: Black Lung Benefits Act	4 (D-1; R-3)	NA	A. VV (May 19, 1994).
H. Res. 429, May 17, 1994	MO	H.R. 4301: Defense Auth., FY 1995	173 (D-115; R-58)	NA	A. 369-49 (May 18, 1994).
H. Res. 431, May 20, 1994	MO	H.R. 4301: Defense Auth., FY 1995	NA	100 (D-80; R-20)	A. Voice Vote (May 23, 1994).
H. Res. 440, May 24, 1994	MC	H.R. 4385: Natl Hwy System Designation	16 (D-10; R-6)	5 (D-5; R-0)	A. Voice Vote (May 25, 1994).
H. Res. 443, May 25, 1994	MC	H.R. 4426: For. Ops. Approps, FY 1995	39 (D-11; R-28)	8 (D-3; R-5)	PQ. 233-191. A. 244-181 (May 25, 1994).
H. Res. 444, May 25, 1994	MC	H.R. 4454: Leg Branch Approp, FY 1995	43 (D-10; R-33)	12 (D-8; R-4)	A. 249-177 (May 26, 1994).
H. Res. 447, June 8, 1994	O	H.R. 4539: Treasury/Postal Approps 1995	NA	NA	A. 236-177 (June 9, 1994).
H. Res. 467, June 28, 1994	MC	H.R. 4600: Expedited Rescissions Act	NA	NA	PQ. 240-185. A. Voice Vote (July 14, 1994).
H. Res. 468, June 28, 1994	MC	H.R. 4299: Intelligence Auth., FY 1995	NA	NA	A. Voice Vote (July 19, 1994).
H. Res. 474, July 12, 1994	MO	H.R. 3537: Export Admin. Act of 1994	NA	NA	A. Voice Vote (July 14, 1994).
H. Res. 475, July 12, 1994	O	H.R. 1188: Anti Redlining in Ins.	NA	NA	A. Voice Vote (July 20, 1994).
H. Res. 482, July 20, 1994	O	H.R. 3838: Housing & Comm. Dev. Act	NA	NA	A. Voice Vote (July 21, 1994).
H. Res. 483, July 20, 1994	O	H.R. 3870: Environ. Tech. Act of 1994	NA	NA	A. Voice Vote (July 26, 1994).
H. Res. 484, July 20, 1994	MC	H.R. 4604: Budget Control Act of 1994	3 (D-2; R-1)	3 (D-2; R-1)	PQ. 245-180. A. Voice Vote (July 21, 1994).
H. Res. 491, July 27, 1994	O	H.R. 2448: Radon Disclosure Act	NA	NA	A. Voice Vote (July 28, 1994).
H. Res. 492, July 27, 1994	O	S. 208: NPS Concession Policy	NA	NA	A. Voice Vote (July 28, 1994).

## OPEN VERSUS RESTRICTIVE RULES: 103D CONG.—Continued

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 494, July 28, 1994	MC	H.R. 4801: SBA Reauth & Amdmts. Act	10 (D-5; R-5)	6 (D-4; R-2)	PQ: 215-169 A: 221-161 (July 29, 1994).
H. Res. 500, Aug. 1, 1994	MO	H.R. 4003: Maritime Admin. Reauth.	N/A	N/A	A: 336-77 (Aug. 2, 1994).
H. Res. 501, Aug. 1, 1994	O	S. 1357: Little Traverse Bay Bands	N/A	N/A	A: Voice Vote (Aug. 3, 1994).
H. Res. 502, Aug. 1, 1994	O	H.R. 1066: Pokagon Band of Potawatomi	N/A	N/A	A: Voice Vote (Aug. 3, 1994).
H. Res. 507, Aug. 4, 1994	O	H.R. 4217: Federal Crop Insurance	N/A	N/A	A: Voice Vote (Aug. 5, 1994).
H. Res. 509, Aug. 5, 1994	MC	H.J. Res. 373/H.R. 4590: MFN China Policy	N/A	N/A	A: Voice Vote (Aug. 9, 1994).
H. Res. 513, Aug. 9, 1994	MC	H.R. 4906: Emergency Spending Control Act	N/A	N/A	A: Voice Vote (Aug. 17, 1994).
H. Res. 512, Aug. 9, 1994	MC	H.R. 4907: Full Budget Disclosure Act	N/A	N/A	A: 255-178 (Aug. 11, 1994).
H. Res. 514, Aug. 9, 1994	MC	H.R. 4822: Cong. Accountability	33 (D-16; R-17)	15 (D-10; R-6)	PQ: 247-185 A: Voice Vote (Aug. 10, 1994).
H. Res. 515, Aug. 10, 1994	O	H.R. 4908: Hydrogen Etc. Research Act	N/A	N/A	A: Voice Vote (Aug. 19, 1994).
H. Res. 516, Aug. 10, 1994	MC	H.R. 3433: Presidio Management	12 (D-2; R-10)	N/A	A: Voice Vote (Aug. 19, 1994).
H. Res. 532, Sept. 20, 1994	O	H.R. 4448: Lowell Natl. Park	N/A	N/A	
H. Res. 535, Sept. 20, 1994	O	H.R. 4422: Coast Guard Authorization	N/A	N/A	A: Voice Vote (Sept. 22, 1994).
H. Res. 536, Sept. 20, 1994	MC	H.R. 2866: Headwaters Forest Act	15 (D-5; R-11)	9 (D-3; R-6)	PQ: 245-175 A: 246-174 (Sept. 21, 1994).
H. Res. 542, Sept. 23, 1994	O	H.R. 4008: NOAA Auth. Act	N/A	N/A	A: Voice Vote (Sept. 26, 1994).
H. Res. 543, Sept. 23, 1994	O	H.R. 4926: Natl. Treatment in Banking	N/A	N/A	
H. Res. 544, Sept. 23, 1994	O	H.R. 3171: Ag. Dept. Reorganization	N/A	N/A	
H. Res. 551, Sept. 27, 1994	MO	H.R. 4779: Interstate Waste Control	22 (D-15; R-7)	N/A	
H. Res. 552, Sept. 27, 1994	O	H.R. 4683: Flow Control Act	N/A	N/A	

Note.—Code: C-Closed; MC-Modified closed; MO-Modified open; O-Open; D-Democrat; R-Republican; PQ: Previous question; A-Adopted; F-Failed.

Mr. BONIOR. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Speaker, let me take this opportunity, as the gentleman did, to commend all the Members who have been so actively involved in this effort, particularly the gentleman from Washington [Mr. SWIFT] and the gentleman from Indiana [Mr. SHARP] who will be leaving the Committee on Energy and Commerce. This is indeed a great tribute to their dedication to a very important issue.

There will probably be few things that we will do in the closing moments of this session that will have a more direct impact on the communities that all of us represent. I think the bottom line that Members will be hearing today, as we debate this issue and amend it and move it forward, is that communities across this country are literally sick and tired of dealing with garbage generated by other communities when they are struggling to deal effectively with their own.

The legislation which we will pass today will put those communities for the first time in the driver's seat, by giving them the ability to decide up front how much out-of-State municipal waste they want to receive and requiring those facilities who wish to accept out-of-State waste to negotiate with host community agreements, explicitly authorizing those shipments.

That is a real big step in the right direction. I encourage my colleagues to support the rule. I encourage them to support the legislation. And again, my congratulations to the gentleman from Washington [Mr. SWIFT], the gentleman from Indiana [Mr. SHARP], the gentleman from Ohio [Mr. OXLEY], and others who have done such a magnificent job on this.

Mr. Speaker, today the House acts to reverse several recent court decisions by addressing the ability of State and local governments to restrict the importation of out-of-State municipal solid waste [MSW].

For too long, communities in the Midwest and other so-called importing States have had to bear the solid waste disposal burdens that exporting States have avoided dealing with.

Although Oklahoma is not currently a major importer of municipal solid waste, cheaper land, and reasonable disposal costs make communities in my State frequent targets of imported waste proposals.

The legislation before us puts those communities in the driver's seat by giving them the ability to decide up-front whether and how much out-of-State municipal solid waste to receive, and by requiring facilities wishing to accept out-of-State waste to negotiate a host community agreement explicitly authorizing such shipments. The legislation also recognizes the important role that the State plays in overseeing solid waste management needs within its borders, and allows importing States to place a "freeze" on the total amount of out-of-State waste sent to the State for disposal. In particular, I want to commend my colleagues on the Energy and Commerce Committee, Representative SHARP and Representative BOUCHER, and their staffs for the long hard work they have put into negotiating this legislation among waste companies, and State and local governments.

Finally, I would like to note that a considerable amount of negotiating between the importing States of Indiana, Pennsylvania, and Ohio and the exporting States of New York and New Jersey occurred at the committee level. The bill reflects the results of these negotiations. Nevertheless, because compromise could not be reached, the House will be considering a number of amendments from both sides today. The bottom line here is that communities across this land are sick and tired of dealing with the garbage generated by other communities, when they're struggling to deal effectively with their own. As public policy makers, we should demand that those who generate garbage should take care of it as close to home as possible. And if exporting garbage to another State is necessary, it should only be done with the permission of the importing community and State. I urge my colleagues to support this bill to strengthen controls over unwanted exports of interstate waste and pass H.R. 4779.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Speaker, I rise in support of the rule and commend the Committee on Rules for providing this open rule so that we can debate some of the last remaining issues that have to be decided by the House.

This has been a long and difficult process that we are finally seeing bear some fruit. I want to particularly commend my good friend, the gentleman from Michigan [Mr. BONIOR], for helping in this effort. I know he has a particular issue in his district and our committee, I think, was very sensitive to that. Along with, of course, the gentleman from Michigan [Mr. DINGELL], the chairman, and particularly the gentleman from Washington [Mr. SWIFT], chairman of the subcommittee that I am honored to be ranking member.

He has in many cases threaded the needle on this legislation to get it where it is today, to be able to bring it to the floor in good shape where we have essentially compromised a lot of the potential problems that existed between the exporting States and the importing States.

Essentially what this bill is, Mr. Speaker, is an empowerment bill. It empowers local governments and Governors to get a better handle on that flow of waste into their particular jurisdictions.

I think that is a positive thing for the country.

All of those who are involved on our side as well as the other side do deserve a great deal of commendation. I look forward to the debate and the amendments to get this bill forward and to get it to pass, hopefully before we adjourn sine die.

I thank the gentleman for yielding time to me.

Mr. BONIOR. Mr. Speaker, I thank my friend, the gentleman from Ohio [Mr. OXLEY], for his comments. I thank him for his good work on this issue.

Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. SHARP], who we will miss dearly in this institution, who has been a strong advocate of working families and a clean environment, healthy environment. I thank him again for his work on this matter.

Mr. SHARP. Mr. Speaker, I rise in support of the rule and in support of the bill before us.

It is the result of almost 4 years of negotiations and compromise between

representatives from importing States, as my own, Indiana, and the exporting States, and with the gentleman from Washington [Mr. SWIFT], providing extremely skillful leadership through a lot of very difficult problems, we have the legislation before us today.

I particularly want to commend the gentleman from Michigan [Mr. BONIOR] who, while not a member of the Committee on Energy and Commerce, has been a vital player. And as someone who shared his point of view, I am extremely appreciative of his work that gets us here today.

I might just briefly indicate to our colleagues that we hope the proceedings this afternoon will go more easily than perhaps was originally anticipated, because there have been some further negotiation between leaders of importing and exporting States. So that we hope to dramatically reduce the number of amendments that are offered here that our Members will have to choose from.

Mr. BONIOR. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. Mr. Speaker, I want to commend the gentleman from Washington [Mr. SWIFT]. I think that our colleagues on both sides of the aisle know that if the gentleman from Washington is involved that issues are going to be handled in a professional and responsible fashion and also with good humor on top of it. We thank him for the good work.

If I could, Mr. Speaker, very briefly, my State has had a unique problem with respect to out-of-State waste. Earlier this year the U.S. Supreme Court invalidated a special program that Oregon set up to try to recoup some of the costs associated with dealing with the problems of out-of-State waste.

As a result of the Supreme Court decision, my State and others, in effect, would be a dumping ground for out-of-State waste. Fortunately, this legislation would correct it.

I also want to thank the gentleman from Virginia. He worked tirelessly with us to come up with an alternative that would authorize States to impose surcharges of up to \$2 per ton on imported waste. In my view, this is something that will encourage recycling. It will encourage sensible conservation practices. I want to thank the gentleman from Virginia for his help and again commend the gentleman from Washington and also add my thanks to the gentleman from Michigan [Mr. BONIOR] who has also spent years toiling on this issue.

Mr. Speaker, I want to commend both the chairman of the Energy and Commerce Committee, Mr. DINGELL, and the subcommittee chairman, Mr. SWIFT, for moving forward on an issue that is considered highly controversial—the interstate shipment of garbage.

For the typical consumer, garbage is something you put out at the curb and it's carted away. And, once out of sight, it's out of mind.

But for the residents of waste-importing States and communities, garbage is not so easily ignored. Trash trucks and railcars roll into our States and dump refuse in our communities, which affects both property values and the quality of life.

While garbage may be an issue that many would prefer to turn their noses up and away from, the impacts of interstate waste shipments on Oregon and other importing States are serious concerns that merit congressional action, and I am pleased that the Congress is moving forward on interstate waste legislation.

The legislation before us today may not be perfect, but it is clearly better than the existing situation where waste is shipped and dumped throughout the country without any restriction whatsoever.

Due to the efforts of Mr. BOUCHER and other members of the Energy and Commerce Committee, H.R. 4779 goes to considerable lengths to protect the interests of local communities with facilities receiving out-of-State waste. And, because of a number of improvements that I and other members made to the bill in committee, it also provides important roles to States, including the ability to charge compensatory fees to recoup the States' costs of managing imported waste.

Several years ago, Oregon tried to recoup its costs arising from out-of-State waste by imposing a surcharge based on the State's costs of managing this waste. Oregon hired outside consultants who calculated that it cost the State over \$2 for each ton of imported waste.

Earlier this year, the U.S. Supreme Court invalidated Oregon's surcharge. As a result of this decision, Oregon and other waste-importing States will not only be the dumping ground for other States' garbage, but they also get stuck with the bill for managing the out-of-State trash.

Working with my colleague from Virginia, Mr. BOUCHER, I added an amendment to correct this unfair situation by authorizing States to impose surcharges of up to \$2 per ton on imported waste. This amendment is critical to my State and it is important for other waste-importing States as well.

I want to thank Mr. BOUCHER for working with me on a consensus amendment that recognizes the financial impact of interstate waste shipments on the importing States and provides an opportunity for those States to recover their costs through compensatory surcharges. I also want to thank the chairman of the committee, Mr. DINGELL, for his willingness to work with me on this and especially for your support of the Wyden-Boucher waste import fee amendment.

I urge my colleagues to support this legislation.

□ 1150

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GREENWOOD].

Mr. GREENWOOD. Mr. Speaker, I would like to add my commendations to all the Members who have been mentioned on both sides of the aisle. This is an issue of extreme importance to

my State of Pennsylvania. We are the No. 1 trash importer in the country. Yesterday we went to the Committee on Rules, and despite the fact that we thought we had worked out a bill that was pretty well compromised, we stood for an open rule, knowing full well that we would anticipate 22 amendments, and we were prepared to debate all 22 of those amendments under the provisions of this open rule.

Mr. Speaker, I am pleased to report now that as of this morning, it appears that we have worked out agreements and will be able to expedite this process by agreeing to two or three amendments. We may have to debate one amendment. I think we can finally come to conclusion on this bill, and I stand in support of the rule.

Mr. QUILLEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BONIOR. Mr. Speaker, I have no further requests for time. I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to House Resolution 551 and rule XXIII, the Chair declares the House in the Committee of the Whole House for the consideration of the bill, H.R. 4779.

□ 1151

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4779) to amend the Solid Waste Disposal Act to authorize local governments and Governors to restrict receipt of out-of-State municipal solid waste, and for other purposes, with Mr. PRICE of North Carolina in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Washington [Mr. SWIFT] will be recognized for 30 minutes, and the gentleman from Ohio [Mr. OXLEY] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 4779, the State and Local Government Interstate Waste Control Act of 1994, which was ordered reported on a voice vote, with bipartisan support, by the Committee on Energy and Commerce on August 18 of this year.

This legislation, which is the product of several years of intense negotiations, attempts to address one of the most controversial issues that has arisen in the debate over solid waste management. It is probably the closest

thing to a good compromise on this issue that we could achieve. I commend my colleagues on the committee who have all worked so terribly hard on this legislation.

The committee members have worked with exceptional diligence to bring this bill to the floor. It has not been an easy task. I would especially like to commend the chairman of the committee, Mr. DINGELL, for his hard work in keeping this legislation moving forward when it seemed that it might falter. As usual, he provided the critical leadership necessary to bring the bill to this point.

Over the last 4 years, the committee has heard testimony from a large number of witnesses regarding this issue. Last Congress, our committee reported a RCRA reauthorization bill that contained a provision giving local governments the authority to control their own destinies in regard to the receipt of out-of-State trash. That section of the RCRA bill was the starting point for the legislation before us today. Two years after the RCRA legislation was reported out of the Energy and Commerce Committee, we are back with another bill. Every provision of H.R. 4779 has been intensely negotiated among a wide range of parties. Agreement was not reached on everything, but the list of outstanding issues has narrowed considerably since we started work on this bill early in 1993.

As I mentioned before, this legislation attempts to address one of the most controversial issues in solid waste management, a question that has been raging for the last several years. That question is: Should States and local government have the ability to restrict garbage coming into their jurisdictions for disposal?

There are a number of persons who believe that a waste company should be able to build a facility and dispose of garbage wherever it wishes. There are others who, for a variety of reasons, including the NIMBY syndrome, believe that States should be able to completely halt all incoming waste flows. Let's face it, my colleagues: most people are not rational about garbage. It's dirty, it smells, and we don't want to deal with it. The urge to ship it somewhere else is natural. If we are to have any hope of having a rational solid waste management policy in this country, it is essential that we find the middle ground. This legislation attempts to do just that.

Interstate transportation of waste is a major political issue in many States. A number of States and communities, most of them rural, feel that they are being used as dumping grounds for States and cities, that for a variety of reasons, are unwilling or unable to dispose of their trash at sites within their own borders. Further, States and local governments often view waste from outside their jurisdictions as a burden

on their waste management systems, including existing landfill capacity. In other instances, State and local officials who have made unpopular and often painful siting decisions do not want to see their localities become dumping grounds for jurisdictions that fail to make those same difficult decisions. This is where the NIMBY syndrome comes in. These days, it is difficult enough for hard-pressed local officials to make the decision to site a waste management facility. To reward those who make these tough decisions by telling them that they will be unable to keep out-of-State trash out of their hard-won facility is unfair and is bad public policy to boot.

In a series of decisions, the U.S. Supreme Court and other Federal courts have held that, absent an express grant of authority from the Congress, States and local governments are powerless to halt the importation and disposal of out-of-State waste in private owned facilities located in their jurisdictions.

The inability of local communities to control their own destinies in the face of mounting waste imports has spawned a national effort to give local governments a voice in the decision whether to accept out-of-State waste. This legislation will ensure that landfills and incinerators are not importing out-of-State waste over the opposition of the affected community.

The bill gives affected local governments the primary authority to decide whether or not to allow out-of-State waste in to their jurisdictions, while also giving Governors the authority to freeze waste imports at 1993 levels. This freeze authority will help Governors plan for solid waste management on a State-wide basis.

H.R. 4779 as reported by the Committee on Energy and Commerce is not a perfect bill. Like much of the legislation we consider, it does not solve everyone's problems. Nevertheless, I believe that it is a good compromise that makes significant progress toward finding a rational, balanced solution to what we all know are emotionally and politically charged problems.

Mr. Chairman, let me cite two Members who I think are particularly important in this. I introduced, 3 years ago, a proposal to solve this problem, and it had the unique virtue that virtually everybody on all sides of this issue hated it. It was clearly not a vehicle that was going to go anywhere.

Enter the gentleman from Virginia [Mr. BOUCHER], who worked very hard in the last Congress to fashion what was then and is now the fundamental concept around which this bill is crafted. I think that he found something that virtually nobody else, in working this issue in Congress, had heretofore been able to discover. It is on this basis that he crafted this legislation that all of the compromises thereto have been based.

Mr. Chairman, the other person is the chairman of the full committee, the gentleman from Michigan [Mr. DINGELL], who basically did the end game. The gentleman from Virginia [Mr. BOUCHER] played the opening, and the gentleman from Michigan played the end game. The result is that we have a good, workable, solid piece of legislation that we can commend to the Congress. I would urge my colleagues to support the legislation.

Mr. Chairman, I reserve the balance of my time.

□ 1200

Mr. OXLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would first like to commend the gentleman from Michigan [Mr. DINGELL], the chairman of the committee, the gentleman from Washington [Mr. SWIFT], the subcommittee chairman, the gentleman from Indiana [Mr. SHARP], who is retiring, the gentleman from Virginia [Mr. BOUCHER], with whom I have worked closely on telecommunications legislation, and this is a long way from telecommunications, but it is extremely important, the gentleman from Michigan [Mr. UPTON], and the gentleman from Pennsylvania [Mr. GREENWOOD], a freshman Member who has taken a strong interest in this legislation.

Mr. Chairman, this is an effort by our committee to find a consensus on where America disposes of its waste.

Mr. Chairman, Americans now produce more than 200 million tons of household trash a year. Needless to say, as we became more and more of a throwaway society, municipal solid waste disposal became a major industry in our country. In fact, we are spending nearly \$30 billion each year to dispose of our waste.

While Americans do not agree on whether we should bury it, burn it, or recycle it, we do agree on the fact that we want our waste hauled away to where we don't ever see it again. The reality is that we don't want our own waste, or anyone else's waste, in our own backyard.

Two dramatic examples of that attitude were the garbage barge which left Long Island in 1987 and the garbage train which left New York City in 1992 unsuccessfully searching for a place to unload.

With landfill capacity dropping and disposal costs rising, particularly in the Northeast, large volumes of waste was shipped across State lines. A surge of out-of-State trash in the 1980's led residents of my home State of Ohio to fear that our State was becoming a dumping ground. Local communities urged State lawmakers to prevent their waste disposal capacity from being depleted by out-of-State waste and as a result, new laws were enacted limiting waste shipments or charging differential fees.

However, when court decisions struck down laws banning or restricting waste imports, States were forced to reexamine their options for addressing waste disposal problems.

Ohio continues to be concerned about its dwindling options for dealing with the increasing challenges associated with solid waste disposal. Because disposal costs in Ohio are less than one-third of those in East coast cities, Ohio still imports 1.8 million tons of out-of-State waste, which represents more than 10 percent of the total amount of waste disposed in the State each year. In addition, well over 1 million tons of construction and demolition debris comes into the State.

We receive waste from over 20 States and Canada and we are facing the possibility of nearly doubling the amount of imported waste should a landfill in eastern Ohio take more Canadian waste as planned. This one facility expects to import another 1.5 million tons of trash from Canada, which is the equivalent of nearly 125 rail cars of garbage per day.

Needless to say, my constituents continue to believe that too much out-of-State waste is dumped into landfills that they are counting on to meet their current needs, as well as the needs resulting from future economic growth. Midwestern States have paid the price for the irresponsibility of other States in dealing with their own trash.

The 1976 RCRA amendments contained provisions encouraging States to adopt comprehensive solid waste management plans. However, the Supreme Court decisions which restrict States from limiting waste shipments are making it impossible for States like Ohio to manage its own garbage.

Ohio has the space to manage its solid waste but this space is being filled by other States who have shown little capacity to act responsibly. In addition, out-of-State waste shipments are undermining Ohio's efforts to responsibly limit our own waste. Ohioans legitimately wonder why they should recycle in order to conserve disposal space for other States' waste.

Mr. Chairman, solid waste has long been thought of as an unwanted material and now more than ever, my constituents would like more control over the amount of unwanted waste they receive.

Over the past several years, Congress has considered various legislative remedies and has debated how to address the concerns of States like Ohio, as well as States like New York and New Jersey, which obviously need to become more self-sufficient in managing their own waste.

Mr. Chairman, the bill before us today is a compromise representing a balance between the powers given to the States and those given to the local governments. This bill does not stop

the movement of interstate waste, it merely gives States and local communities the opportunity to say "yes" or "no" to out-of-State waste. This authority will protect the ability of State and local governments to adequately plan for solid waste management.

You may think this bill is a Midwest fix but keep in mind that without this bill, out-of-State waste will soon be everyone's problem.

Again, Mr. Chairman, I would like to commend particularly the gentleman from Washington [Mr. SWIFT], the chairman of the subcommittee, who is unfortunately leaving us after this session of the Congress but who has been really the fulcrum and the guiding force in working this compromise.

Mr. Chairman, I urge my colleagues to support this bill which will give State and local governments more control over solid waste capacity.

Mr. Chairman, I reserve the balance of my time.

Mr. SWIFT. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana [Mr. SHARP].

Mr. SHARP. Mr. Chairman, first I just want to say a word about our colleague the gentleman from Washington [Mr. SWIFT] who is leaving. He has been an extraordinary Member of the House of Representatives and an extraordinary subcommittee chairman. The country is suffering a loss as are the people that he represents with his retirement from the House of Representatives. As citizens we probably gain from getting back this person among the normal human folk. He has done an outstanding job and this is just one more example of it on a very complex political and substantive issue that really cries out for some resolution.

Mr. Chairman, I rise in strong support of the bill before us, even though from my perspective and the perspective of the importing States, it is half to 60 percent of a loaf but it does improve the situation and the capacity for our local governments and our States that have responsibly planned for how to manage trash to regain some control over their situation.

As has been outlined here by other speakers, there has been a history here where the Congress had reaffirmed with the States that it really was their responsibility to manage municipal waste, only to find out as they struggled to do so that they did not have full control over their local area because private negotiations and contracts could undermine public policy. The courts tended to strike down the public policy, leaving the States and localities without the authority to act, even though there was a need for them to act responsibly, and a number of them had. In particular, our colleague, the gentleman from Pennsylvania [Mr. GREENWOOD], has been an extraordinary participant in this. In his own career previously at the State Senate

level, he had helped to lead his State to take responsible actions to plan ahead on how to reduce waste, how to recycle, and how to manage that which is left over in landfills and other ways, only to find out that out-of-State importation of waste could undermine the tough political substantive decisions that that State was willing to take.

We have a similar picture in my home State of Indiana. Our Governor Bayh and State and local officials have worked dramatically to develop a program of waste reduction, waste recycling, and waste management, only to discover that importation of out-of-State waste was filling up our landfills as we sought to reserve space for the future.

Mr. Chairman, I really hope that our colleagues today will pass this legislation as will the U.S. Senate. I do want to indicate that the gentleman from Virginia [Mr. BOUCHER] has been the staunch leader on this issue and as the gentleman from Washington [Mr. SWIFT] indicated, provided the fundamentals of the bill. Many of us had to push and pull and argue to try to get our points of view more strongly held in the bill. That is the natural way of the process, but he charged forth with the right principles and we owe him a great debt in this process. I do want to also indicate one of the toughest adversaries that those of us from the importing States had was the gentleman from New York [Mr. MANTON] who very skillfully and very thoroughly defended the rightful interests of those exporting States that are struggling to manage their waste.

Mr. Chairman, I rise in support of H.R. 4779, the State and Local Government Interstate Waste Control Act of 1994, as reported by the House Energy and Commerce Committee. I believe it is a good bill. I believe it is a fair bill, and I believe it is a balanced bill. Most important, it is a compromise, a fragile compromise, achieved after over 2½ years of work, with all affected parties at the table.

Mr. Chairman, many States and local communities, including my home State of Indiana, are being dumped on, and we are now powerless to stop it. If enacted, H.R. 4779 will give these States and local communities the opportunity to say "no" to out-of-State waste.

We also give States the authority they need to do what Congress told them they had to under the Solid Waste Disposal Act—to responsibly plan for and manage their solid waste.

In Indiana, we have worked hard to responsibly manage our solid waste. We have worked hard at the local level, in our State legislature and at the grassroots to appropriately manage our waste. We have a statewide goal of reducing the amount of waste we landfill by 34 percent by 1996 and 50 percent by the year 2001. In order to achieve this goal we have recycling and source reduction programs, bans on yardwaste and tires going into landfills, yardwaste composting programs, and public education. Our citizens are modifying their behavior to make our waste reduction goals a reality.

All of our 61 districts are making a concerted effort to reduce the portion of our waste going to landfills. Thus we are conserving landfill space. Our efforts and our citizens' commitment to the program is being undermined as our landfill space is being filled up by out-of-State waste. Our citizens are unhappy that all of our planning and efforts are for naught in the face of this onslaught of out-of-State waste. We want to regain control of our destiny.

I tell you this only in part to generate sympathy for our cause. I tell you this also to pique your self-interest. This is our problem today, but without this bill, it will be your problem tomorrow. Without this bill, a responsible State is a sucker.

Take the case of Pennsylvania. Pennsylvania in the 1980's bit the bullet, went through an extensive planning process, and required localities to site enough landfills to meet the State's capacity needs. New York did not do this. And lo and behold, Pennsylvania landfills are filling up with New York waste. This is not fair. This is not right.

Some people argue that we want to stop the movement of interstate waste. That is not true. We merely want to give States and local communities the opportunity to say "yes" or "no" to out-of-State waste, and to preserve the ability of States and localities to plan for and manage the disposal of solid waste.

Those communities who want the economic benefit that may be derived from hosting a landfill can do so. In fact this bill gives them leverage in negotiating with waste companies who are not now required to enter into agreements with host communities.

Some people argue that trash should move around just like any other commodity, without any role for State and local communities. This is an indefensible position. Garbage is not like any other commodity. As economists like to say, it generates externalities, or social costs—it smells, it leaches into groundwater, it makes noise, it creates traffic, it lowers property values. States and local communities must have some say over where and how it is managed.

Last year I introduced a bill, H.R. 2848, the Interstate Transportation of Municipal Waste Act of 1993. That bill, which was supported by the Governors of 22 States, was considerably stronger than H.R. 4779, the bill that has been reported from the Energy and Commerce Committee.

The bill before us is half a loaf, but nonetheless an important improvement for States and communities seeking to manage waste.

In the process of full committee consideration I listened to the views and concerns of exporting communities, and waste companies. Mr. BOUCHER and other concerned Members and I compromised. Mr. MANTON successfully amended the bill at subcommittee and full committee mark-up to allow New York more time to change its waste export practices. None of us got everything we wanted.

I hope you will join me in supporting H.R. 4779.

Mr. OXLEY. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. MOORHEAD], the ranking member of the Committee on Energy and Commerce.

Mr. MOORHEAD. Mr. Chairman, I rise in support of H.R. 4779, the State and Local Government Interstate Waste Control Act of 1994. This legislation is the product of over 4 years of debate in the Committee on Energy and Commerce. During this period, the committee has held extensive hearings and several markups on legislation addressing the interstate movement of municipal waste. In the last Congress, for example, it was part of the RCRA reauthorization legislation. And in this Congress, numerous stand-alone pieces of legislation were introduced and considered.

After much informal discussion among members, the Subcommittee on Transportation and Hazardous Materials reported out H.R. 4779 by voice vote on July 22, 1994. The Energy and Commerce Committee then reported out the bill, again by voice vote, on August 18, 1994. I am pleased to see we are now able to debate this legislation on the floor under an open rule.

Mr. Chairman, while I think the House should have an opportunity to debate this fully as it will under the open rule that has been granted, given the level of strong interest among some delegating, I myself have reservations about the wisdom of Congress taking any action in this area. The Supreme Court has recently held that States may not interfere in the movement of municipal waste or the provision of waste management services. And I tend to think that, in general, the Supreme Court has it right. States should not be allowed to balkanize the national economy due to local fears.

I think a recent editorial in the Journal of Commerce sums up my concerns quite well.

Trash disposal is a business like any other, subject to the laws of supply and demand. Garbage tends to flow to areas that can handle it cheaply—generally regions with a dry climate and sparse population. The trade benefits both sides: receiving communities get tax revenue and other concessions from landfill operators, and shipping communities get relatively cheap trash disposal.

The editorial concludes:

The irony here is rich. While the rest of the world moves toward open economies, Congress is busy building barriers to obstruct domestic trade in trash. That violates the spirit, at least, of the constitution's commerce clause, which aims to protect nationwide commerce against balkanization by the states.

Perhaps it is easy for me to see the big picture since California is not really affected by this legislation. And I can sympathize with the Members who feel the need to circle the wagons and close their borders to waste from other States. But do not be surprised if this rush to limit interstate commerce comes back to haunt you when it is your State that is the exporter.

Finally, Mr. Chairman, I would note that there is no real health or safety issue involved in this legislation. With

EPA's municipal landfill regulations in place, the Agency does not view the interstate movement of waste as having a pronounced environmental effect—either pro or con. Simply put, this is not really an environmental issue.

It is, however, a powerful political issue, particularly in the areas that import waste. After over 4 years of debate, I believe it is time Congress acted. My hope is that we can solve the very legitimate political concerns of Members, and dispense with this issue without wreaking havoc on the national economy. I believe the bill reported out of Energy and Commerce generally accomplishes this goal, and I will judge any proposed amendments accordingly.

□ 1210

In closing, Mr. Chairman, I want to congratulate our ranking Republican member, the gentleman from Ohio [Mr. OXLEY], for his work on this bill. But I want to also bid a special thanks to the gentleman from Washington [Mr. SWIFT], the chairman of the subcommittee for the remarkable job that he has done on many many bills over the years that he has been in Congress. The gentleman has been our friend, he has been a very great contributor to the work of the Committee on Energy and Commerce, and we will miss him very much as he leaves to do other things.

Mr. SWIFT. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. MANTON], who has worked very hard on behalf of the concerns of his State and region and has been extremely helpful in the process.

Mr. MANTON. Mr. Chairman, I thank the chairman for those kind words and also my colleague, the gentleman from Indiana [Mr. SHARP], for his kind words. I must point out the gentleman from Indiana has been a very worthy adversary on this legislation, and we have conducted our debate I think in a civilized manner with comity on all sides.

Mr. Chairman, the legislation under consideration seeks to address a complex emotional and political problem, but I hope we do not overlook the significance of our actions here today.

This legislation has the potential to impose untold economic harm on communities that export some of its municipal solid waste and on other communities that import waste as a means of economic development.

Mr. Chairman, I have worked with my colleagues from States that import municipal solid waste in an effort to negotiate a compromise based on reason, comity and sound public policy. Unfortunately, while we have made progress, I believe we need to continue these negotiations as this measure moves forward.

Mr. Chairman, all politics is indeed local, and I fully appreciate the pressures some of my colleagues are faced

with on this issue. However, I do not believe Congress should be micro-managing where municipal solid waste goes for disposal. We should work to ensure that our solid waste disposal policy is designed to protect human health and the environment.

Mr. Chairman, municipal solid waste currently crosses State lines for disposal for one reason, and one reason alone: the cost of doing business. This is not an environmental issue, it is an issue of economics. I do not think Congress should take actions which specifically seek to deny private businesses the right to protect their investments and maximize their profits—providing that their actions are in accordance with existing Federal, State and local law.

Mr. Chairman, we should not lose sight of the fact that many communities openly welcome the development of waste disposal facilities in their jurisdictions for the receipt of out-of-State municipal solid waste. I believe the legislation as currently written may indeed limit this opportunity and deny these communities much needed economic benefits.

Mr. Chairman, it is no secret that municipal solid waste is exported from my State of New York, but virtually every other State in the Union also exports municipal solid waste. The amount of municipal solid waste that is exported from New York, while relatively significant in volume, represents only a small fraction—some 19 percent—of the approximate 17 million tons of waste generated, recycled, treated and disposed of in the State each year. I might point out New York is a net importer of hazardous waste.

Mr. Chairman, I will have more comments on the legislation during consideration of amendments.

Mr. OXLEY. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. GREENWOOD], who has been a real leader on this entire issue.

Mr. GREENWOOD. Mr. Chairman, I thank the gentleman for yielding me the time. I also would like to again commend Chairman DINGELL and ranking member MOORHEAD and the chairmen of the subcommittees, the gentleman from Washington [Mr. SWIFT] and the gentleman from Ohio [Mr. OXLEY], for their fine work. But I would be remiss if I did not point out the remarkable working relationship I have had with the gentleman from Indiana [Mr. SHARP], who has been just a perfect gentleman and joy to work with on this issue. And I would also like to thank the staff on both sides of the aisle who are the real work horses who do the hard labor of putting the fine tuning on these negotiations.

Mr. Chairman, the State and Local Government Interstate Waste Control Act is of vital importance to my State of Pennsylvania and to my congressional district.

Until relatively recently, when we set our household trash on our sidewalks or at the end of our driveways, it was trucked to local dumps, and we did not think much about it.

In the late seventies and early eighties, we in Pennsylvania did the right thing for the environment. We began to close down these dumps because they lacked adequate liners or collection systems to prevent leachate from polluting our ground water aquifers.

We closed more than a thousand such antiquated facilities. The good news was that we protected our environment. The bad news was that we ran out of safe places to dispose of our garbage.

By 1986 Pennsylvania was exporting 3 million tons of trash a year. In 1988, as a member of the State Senate, I helped write the Municipal Waste Planning, Recycling and Waste Reduction Act. This new law required counties and local governments to make plans for the disposal of their waste, encouraged the permitting of disposal facilities that met environmental standards, and mandated local recycling so we can reduce our waste flow.

The results have been dramatic. The good news this time was that Pennsylvania quickly developed state-of-the-art facilities to safely dispose of its trash. The bad news was that our neighbors in New Jersey, New York, Maryland, and Delaware started trucking their trash to these facilities in record volumes. We are now the No. 1 trash importing State in the country.

Bucks County, with its two landfills and new incinerator, bears much of the brunt of these imports. In 1993, 900,000 tons of out-of-State trash was trucked into Falls Township and Tullytown Borough. This figure does not count trash from Philadelphia and other Pennsylvania counties.

Why should we be concerned about all this out-of-State waste? We should be concerned because even the best available technology is not pollution-free. Because we accept so much out-of-State waste, our air and water are placed at risk beyond the levels proportionate to our population.

The out-of-State waste hauled into my district puts the equivalent of 40,000 tractor trailers per year onto our local highways. This legislation will enable us to reduce this volume by half.

Mr. Chairman, our ability to pass stringent pollution control and waste reduction legislation in Congress requires a national constituency with a stake in the outcome. As long as entire regions can export their waste rather than properly dispose of it, they will not insist upon tough solid waste laws.

If Pennsylvania's facilities become filled to capacity with out-of-State trash, we will soon be scrambling to find places to dispose of our own waste again.

The new Local Government Interstate Waste Control Act will allow Pennsylvania and four other major trash-importing States to cut in half the volume of out-of-State waste crossing their borders. We do not close our borders, we simply gain some control over the volume of imported wastes. And we allow communities who want to take more trash to do so as a local option.

The key to responsible solid waste management is to give everyone a stake in it. This legislation does that in a way that is fair, balanced, and sensible. I urge the Members to support it.

□ 1220

Mr. SWIFT. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York [Mrs. MALONEY].

Mrs. MALONEY. Mr. Chairman, I rise to express my serious concern over provisions of the State and Local Government Interstate Waste Control Act.

There is a certain irony that we are taking up this legislation, having just passed the conference report on transportation appropriations which represents our Government's investment in making it easier to move goods and people between the States. Yet here we are about to enact the first legislation to create protectionist barriers between States.

Once this precedent against interstate commerce is set, we might begin to see bills that allow surcharges against the import of Idaho potatoes to New York in order to boost the State's major potato farms on Long Island. I hope my colleagues will see fit to postpone action on this legislation in order to craft a bill that effectively helps States reduce their waste exports without penalizing these localities that are forced by economics and geography to ship some portion of their municipal waste to other jurisdictions.

For example, New York is striving to reduce the amount of exported municipal waste, particularly in New York City, where we have just implemented a citywide recycling program that is among the most ambitious in the Nation. But the fact is that New York exports 19 percent of its municipal waste because it is economically reasonable to do so.

But if we place restrictions on out-of-State municipal waste, no one would be surprised if within a single State some localities take the precedent being set here today and begin to ban waste imports from larger cities within the same State. In addition to the general precedent being set, there are specific provisions of the bill that are very worrisome. One of the most troubling aspects of this legislation is that it grants local governments the authority to break existing contracts between businesses and other States.

The bill also gives local authorities the right to break agreements that

they had entered into even after the enactment of the bill.

I am concerned that in an effort to pass legislation that sounds politically popular we will wind up passing legislation that does more harm than good.

Mr. OXLEY. Mr. Chairman, I yield 2 minutes to the gentleman from Colorado [Mr. SCHAEFER], a member of the committee.

Mr. SCHAEFER. Mr. Chairman, the Interstate Waste Control Act before us today represents the end product of months of hard work and negotiation on how States will be allowed to restrict the flow of waste through their borders.

I will only touch on one aspect of the bill before us: the needs determination provision. This language incorporates an amendment I offered during markup at the Energy and Commerce Committee.

Originally, this bill would have allowed the Governor of a State to veto local land use decisions through a grant of authority to deny otherwise legal waste permits. This provision had nothing to do with the regulation of interstate waste. However, it had everything to do with the restriction of property use and the limitation of local decisionmaking.

The needs language in the present bill strikes a good balance between the two extremes in this debate. First, it grants to States the ability to consider local and regional needs for waste disposal capacity in the comprehensive solid waste management planning process. This is an entirely appropriate and needed consideration.

Second, it grants to affected local governments the ability to determine their own local or regional need for a new landfill or incinerator or a major modification to such a facility. This should ensure that the final authority and decisionmaking in these matters rests exactly where it belongs—at the local government level.

All the parties involved have worked in good faith to try to strike a healthy balance in this bill. While there are still many areas of disagreement on the issue on interstate waste transport, I believe that the measure before us today largely accomplishes that goal.

Mr. OXLEY. Mr. Chairman, I yield 2 minutes to our good friend, the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Chairman, this past St. Patrick's Day, 16 of the 21 members of the Pennsylvania delegation introduced a strong bill to allow State and local governments to control waste imports. We hoped that with the luck of the Irish we would be able to get an interstate waste bill passed this Congress. I am very pleased today that an agreement has been worked out between the major parties and the major disputants on this very contentious issue, and urge my colleagues to

strongly support the Energy and Commerce bill without any amendments to weaken it.

Unfortunately, Pennsylvania has the dubious distinction of being the No. 1 importer of other peoples' garbage. The amount of waste imported into Pennsylvania continues to increase each year. In 1991, the amount of garbage imported was 3 million tons; in 1992 as shown on this graph, it was 3.8 million tons; and in 1993 it was close to 4 million tons. In my own district, we import over 100,000 tons of garbage a year or 432 pounds per person. We are inundated with other peoples' garbage. At the same time, very little of Pennsylvania's waste is exported because the State requires communities to plan and dispose of their own trash, in a responsible fashion.

Very simply, this is not fair. The landfill space planned for our own garbage is being used up, and the health and safety of our citizens is endangered with a proliferation of trash trucks on our highways. We cannot plan for our own disposal needs because we cannot now control our own destiny.

H.R. 4779 is a compromise bill. As with any compromise no one is entirely satisfied, but it has broad support from key players. It takes into account both the needs of exporting States, importing States, local governments, and the waste industry. Local governments have indicated that local communities should have the right to say "yes" or "no" to out-of-State waste. The bill provides the affected local governments with this authority through host community agreements. At the same time, the bill provides States with the authority to plan for adequate future disposal capacity within their State.

Mr. Chairman, our citizens in Pennsylvania are frustrated. We need to ensure that our Nation's waste is disposed of in a more equitable manner—and we need to give State and local governments the tools to achieve this goal. I commend the Energy and Commerce Committee members, Chairman DINGELL, Congressman MOORHEAD, Congressman SHARP, Congressman SWIFT, Congressman GREENWOOD, and Congressman OXLEY, on negotiating this vitally needed compromise legislation. I ask my colleagues to support it without any weakening amendments.

Mr. BOUCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana [Mr. VISCLOSKEY].

Mr. VISCLOSKEY. Mr. Chairman, I rise today to express my support for H.R. 4779. This bill gives State and local governments some control over the amount of out-of-State waste being deposited in their landfills. In short, this legislation is a step toward States taking responsibility for and controlling their own waste and environmental futures.

The area I represent, northwest Indiana, has been a dumping ground for

trash coming in from our neighboring State to the west. For example the Gary, Indiana Landfill collected 661,274 tons of out-of-State trash in 1992, ranking first out of 24 landfills in Indiana that accept imported garbage. All of the waste was from Illinois. In Porter County, the Wheeler landfill took in 390,656 tons of imported garbage, ranking it second in the State. That trash also came from Illinois. States such as Indiana cannot continue to let those outside our boundaries bury trash in our backyard. This bill recognizes that our current system is as unacceptable to the people I represent as it is unsustainable for the future.

Indiana continues to properly plan for reducing solid waste within its borders and for the development of adequate in-State capacity for solid waste disposal. The State's planning efforts will be undermined if the State is not allowed to control the amount of waste it accepts from outside Indiana. Since 1990, Indiana has tried numerous actions to protect Indiana citizens from public health and welfare problems related to uncontrolled importation of solid waste. The majority of these initiatives were ruled unconstitutional by Federal courts based on interstate commerce protection.

Court decisions all the way up to the U.S. Supreme Court have presented a need for congressional action in the area of interstate waste regulation. State governments have pleaded with us to give them some measure of control over their own destinies and to make it possible for them to effectively plan for their future waste disposal needs. H.R. 4779 provides them with this control.

I urge my colleagues to vote in favor of this important legislation and give State governments more control over the flow of waste into their States. It is a good first step.

Mr. OXLEY. Mr. Chairman, I yield 2 minutes to my good friend, the gentleman from Ohio [Mr. GILLMOR].

Mr. GILLMOR. Mr. Chairman, Archaeologist William Rathje writes that "man faced his garbage crisis when he became a sedentary animal—when, rather than move himself, he chose to move his garbage."

According to a recent poll, waste disposal is seen among local officials as an extremely serious or very serious local problem more often than any other issue except improving education.

Yet to a large extent, State and local governments—especially in the Midwest—find their hands tied when trying to address the waste problem. This is because, despite all of the planning, management and foresight they can exercise as to their own waste, they are unable to limit out-of-State waste. Failures of the Federal Government under the interstate commerce clause to give States authority forces them to accept it.

The 10th amendment says that powers not delegated to the United States "are reserved to the States." I have always favored an approach that gives control over waste disposal to the States. After all, we are talking today about interstate waste shipments, and out-of-State waste. H.R. 4779 is a political compromise and is a blend of two different bills, one that gives control to the States and another that gives control to the local governments.

The bill allows local governments to create host community agreement with waste companies to site new landfills. Those host community agreements are impervious to State authority granted elsewhere in the bill, including the power of a State to phase down the amount of out-of-State waste. This is a true compromise. There is no outright ban on out-of-State waste, and there is no authority for the States to impose such a ban. The bill encourages each State to be responsible for its own waste.

I will be interested to see if anyone characterizes this bill as a "nimby" bill—a "not in my backyard" bill. This is really a "mimby-yebebe" bill—a "mine in my backyard, yours in your backyard" bill. Again, we want States to be responsible for their own waste.

The bill does not have everything I want in it, but it is a reasonable compromise. I have come prepared to offer amendments, but I think we have struck some agreements regarding amendments and will abide by them this is a pro-environment, and pro-responsibilities bill.

I would like to thank my colleagues, PHIL SHARP, AL SWIFT, RICK BOUCHER, MIKE OXLEY, JIM GREENWOOD, and Chairman JOHN DINGELL for their hard work on this bill. We can be very proud that we are standing here on the floor debating this bill today.

□ 1230

Mr. BOUCHER. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in opposition to this bill. I must say that I fully agree with the stated intention of the legislation—providing local communities with a say on whether or not they want to take out-of-State trash. Local communities should have the right to decide whether or not they want to accept out-of-State trash.

But that's not what this bill is all about. No, this bill is more environmental politics than environmental policy. It allows a few State Governors to make political statements at the expense of a few other States like New York and New Jersey. Unfortunately, the consequences of those political decisions are going to wreak havoc in my State of New York and I cannot support any legislation with so pernicious a result.

Provisions in the bill will allow State Governors to override local decisions to accept out-of-State waste, even when the local communities have determined that it is in their best economic interest to accept it. It allows State governments to say "we'll take your trash, Florida and Michigan—but not your trash, New York and Illinois." It allows States to deem some facilities unfit to take out-of-State trash when the same facility can take the same kind of trash from in-State sources. The bill is just not fair.

This legislation is also an unnecessary infringement on private enterprise. Remember, many local communities across the country are willing to take out-of-State trash for one simple reason: It means jobs. The restructuring of our economy has forced many towns and counties to consider alternatives that yesterday seemed unnecessary but today mean survival, including competing for prison construction sites and waste disposal sites.

Within 3 years, the city of New York is going to have to find a home for its commercial waste because provisions in the bill before us will probably close off most of the current disposal options. For the record, Mr. Chairman, New York City already handles all of its residential waste locally—no small feat for a city of 7 million people with few good disposal options. But it has done that through tough recycling programs and a commitment to reduce local waste.

The program is not that New York has to find a local home for its trash—the problem is the incredibly short amount of time in which it has to do it under this legislation. Three years is what the bill gives us. Creating local waste disposal options will take at least twice that long. Siting landfills, obtaining permits, constructing incinerators—all that takes time.

The result of this bill will mean chaos in the interstate markets for garbage disposal. It will mean New Yorkers pay higher trash bills and it will mean communities that see waste disposal as a viable means of economic survival may have to look elsewhere.

I would also like to warn my colleagues that this bill could come back to haunt you. Any State which in the future may need to export trash—even on a short term basis—may find their options severely limited if this bill becomes law.

We could have had a bill that gave local communities control of their destinies and yet treated States that currently export trash with respect. It is regrettable that we do not.

I urge my colleagues to oppose this bill.

Mr. OXLEY. Mr. Chairman, I yield 2 minutes to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, this Member will vote for H.R. 4779, the Local Government Interstate Waste Control Act, with the desire that it will be improved during conference with the other body.

This Member has long believed that Congress must make the necessary changes so that States are given the control over waste imports that they need and deserve. Although citizens and State and local governments have become increasingly concerned about the impact these waste shipments will have on future landfill capacity, they have learned that they are powerless to do anything about it. Clearly, something must be done to correct this problem and allow local governments to properly plan and control the various aspects of waste management.

Many States are seeking to regulate and control the amount of solid waste which enters their borders. However, their efforts have been frustrated by the courts which have consistently and properly ruled that under existing conditions, States, without congressional action, cannot prohibit or place restrictions on these shipments without violating the U.S. Constitution's interstate commerce clause.

The U.S. Supreme Court, though, has made it clear that State actions which are clearly authorized by Congress can overcome this legal hurdle. The Constitution specifically allows the Congress to pass legislation to regulate interstate commerce. As a result, this Member believes it is important for Congress to take action which would give States the authority to control the importation of waste.

This Member testified before the Committee on Energy and Commerce's Subcommittee on Transportation and Hazardous Materials in 1991 on this issue and earlier this year wrote to the committee to express his views on the subject.

This Member would like to express strong support for granting the Governor of each State new authorities to restrict the importation of waste. Because waste transport companies often target small, rural communities when choosing disposal sites for out-of-State waste, this Member believes it is imperative that States as well as local communities have an adequate role in addressing interstate waste problems. As the result of attractive financial incentives, communities often receive garbage due mainly to economic considerations rather than on the basis of responsible statewide and national solid waste management goals.

This Member would also like to express opposition to the grandfathering of current agreements which would allow these existing flows to continue in perpetuity. Such an approach would lock States and communities into the unacceptable situation which has brought this issue to the attention of

Congress. These States and local governments must be given the opportunity to reclaim control over waste entering their States.

This Member is pleased that this issue is finally being addressed on the floor. Although there are positive signs that recycling and other means of waste reduction are gaining wider acceptance across the country, the fact is that the problem of what to do with the waste that is placed in landfills must be addressed. This trash has to go somewhere and increasingly it is ending up in Nebraska and other Midwestern and Western States. Landfill space is rapidly becoming a precious commodity, and by continuing to allow States to export solid waste without any regulations or restrictions, we are following a policy which does nothing to encourage waste reduction or recycling. By allowing this practice to continue, the message is sent that as long as a State, locality, or private business can locate landfill space somewhere else, it can continue to generate enormous amounts of trash. It also penalizes those States which have adequately prepared for future solid waste disposal.

While some States may find it in their best interests to continue mutually beneficial solid waste disposal arrangements with other States, these important decisions should be made by the States when their communities and rural areas are affected. States are in the best position to plan and control the various aspects of waste management.

Mr. Chairman, this Member supports moving this issue forward with the hope that the legislation will be improved during the conference.

Mr. OXLEY. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York [Ms. MOLINARI].

Ms. MOLINARI. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise today to voice my strong opposition to this bill. But first, I would like to commend my colleagues, the gentlemen from New York, Mr. MANTON, Mr. PAXON, Mr. RANGEL, Mr. SCHUMER, and Mr. TOWNS, who have dedicated their time and effort to reach a compromise on this difficult issue. In my opinion, this debate centers around public perception and politics and is devoid of good, sensible public policy.

As the representative of the world's largest landfill, let me say that this legislation will be devastating to my district and the entire city and State of New York. Fresh Kills landfill alone handles all of New York City's residential waste and is nearing capacity. Environmental concerns are being cast aside for the sake of a political statement. And this is not the case only in New York. The details of this bill will create chaos in interstate markets for garbage disposal and that will ulti-

mately negatively impact each and every State in the union.

While attempting to address the needs of importing States, this legislation succeeds at tying the hands of those that export. This legislation goes so far as to abrogate contracts by allowing local governments to prevent execution of renewal options even if they are called for in the terms of the contract. Now communities who have negotiated in good faith will be forced to look elsewhere and find alternative disposal arrangements. Ironically, this bill makes this practice extremely difficult.

Under the terms of the authority in this legislation, a Governor could order a facility to begin reducing the amount of imports it takes from one state even when it takes the same amount or increases the amount it takes from other States. In addition, this legislation does not include a system for verifying whether a State's 1993 import level was sufficient for it to qualify for the ratchet.

I urge my colleagues to consider the precedent that H.R. 4779 will set. Rest assured, this bill appears to be a direct threat to New York and New Jersey, but your State and district may be next. Any State which in the future may wish to export waste—even on a short-term basis—may be precluded from doing so if this misguided bill becomes law.

□ 1240

Mr. SWIFT. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I just feel that it is necessary to lay out again—in the wake of some of the good people who oppose the legislation, simply point out—this is not a winner-take-all bill. This is not the bill that those who wanted to prevent any importation into their State would in their ideal world have asked for. It is not the bill, in fact, that has been put forward for several years both in this body and in the other body. This is a compromise, and, as we listen to those who raise legitimate concerns from their regional perspective with this bill, I think it is just important to keep in mind that this is not a bill that seeks to stiff any interest, but rather this is a bill that tries to work out a difficult compromise on the public policy issues between the exporting States and importing States.

Mr. Chairman, I yield 1 minute to the gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. Mr. Chairman, I thank the gentleman from Washington [Mr. SWIFT] for yielding this time to me.

Mr. Chairman, my State of Tennessee is a beautiful, largely rural State that happens to be geographically central to two-thirds of the population of our country. We are within a 1-day's truck drive of two-thirds of the population of

the United States. That has given our State a tremendous advantage in terms of recruiting industry and recruiting jobs, but it has also made us a tempting target for out-of-State waste haulers. It is well known now that the Supreme Court has taken away our traditional right as a State, as communities, and as the people of Tennessee, to say no to out-of-State garbage. It is high time that we pass this bill, H.R. 4779, to make sure that we restore those traditional rights of our State, of our communities and of our people to say, "Don't dump on Tennessee."

Mr. Chairman, Tennesseans are responsible people. They know we have to take care of our own garbage. But they also know that we have no obligation to take care of everyone else's garbage. This bill is a fair compromise to make sure that we restore the right to say no to our own people.

I thank the gentleman from Washington [Mr. SWIFT] for his hard work in crafting this bill. I look forward to the passage of this bill.

Mr. OXLEY. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana [Mr. BUYER].

Mr. BUYER. Mr. Chairman, I rise in strong support of H.R. 4779, the Local Government Interstate Waste Control Act. The State of Indiana is currently forced to accept increasing amounts of municipal waste from different regions of the country. In response to these increased amounts of imported waste, Indiana landfills are expanding. For example, last year in Buffalo, IN, the Liberty landfill increased by approximately 100 acres in response to the growing levels of trash coming across Indiana borders. In 1991 Indiana landfills contained approximately 1.5 million tons of out-of-State waste, while in 1992 this figure rose to approximately 1.8 million tons. The total amount of waste generated outside of Indiana and hauled into landfills during these years accounted for approximately 1/3 of all landfill waste.

Figures provided by the Indiana Department of Environmental Management show that in 1980 Indiana had 150 small landfill sites, by 1993 the total number had dropped markedly to 54. Indiana's landfill capacity is not infinite.

Hoosiers recognize the need to address landfill capacity and solid waste management. The Indiana General Assembly passed legislation to create task forces designed to investigate ways to reduce waste materials flowing into Indiana landfills. This legislation also formed solid waste management districts across the State in an effort to attempt to control solid waste disposal. This responsible approach to waste management includes specific State waste reduction goals and other targeted efforts which continue at the State and local level today.

Mr. Chairman, I do not wish to see the meritorious actions taken by concerned Hoosiers negated as we are forced to sit and watch waste haulers cross Indiana borders and dump tons of trash in our landfills.

I support the approach to waste management agreements as included in this legislation. Governors and local governments should have the right to greater discretion over the amount of solid waste dumped in landfills. Local communities in Indiana's Fifth District are taking a responsible approach to an overall reduction of waste in landfills. White County Recycling Center in Reynolds, IN has seen an increase in their recycling business due to community involvement and education programs. I believe other States should do the same.

H.R. 4779 is a necessary measure to stem the exponential growth of waste being imported into the State of Indiana, while providing the States with greater jurisdiction over landfill deposits. I, therefore, urge my colleagues to grant Governors and local communities greater jurisdiction over municipal waste within State boundaries by supporting H.R. 4779.

Mr. OXLEY. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. UPTON] who has been a real leader in our committee on this very important issue.

Mr. UPTON. Mr. Chairman, as one of the original two co-authors of this bill, I obviously favor its immediate passage.

This is critically important legislation to thousands of American communities, especially small towns and rural areas. This is not a wholesale assault on the Constitution's Commerce Clause and it is not an attempt to make America's cities drown in their own wastes.

It is a prudent, measured proposal to give American States and communities the limited right to set terms and conditions on the inflow of waste from other States.

You will hear some unique phrases on this floor during the debate on H.R. 4779. You will hear about host community agreements, ratchets and caps, and about alternative definitions of municipal solid waste. This is lawmaking and definitions are half the battle in any legislative exercise, but the key thing in this case is the overall intent of the legislation.

When the Supreme Court struck down Michigan's program for regulating out of State waste in 1992, it left people and affected local governments in lightly populated areas, like the district I represent, with the feeling that they had no role in a decisionmaking process with enormous tangible effects on their homes, neighborhoods, and communities. Who wants to watch giant trucks taking waste through his or her town, especially when the waste

comes from communities where they have seemingly lacked the political will to solve their own waste problems?

As soon as legislation to modify the Court's decision was discussed, two camps formed. One camp insisted that the Court's decision was consistent with the venerable Commerce Clause and termed efforts to alter it as tinkering with the Constitution. The other camp could have supported the erection of myriad Berlin Walls at State boundaries, blocking the flow of municipal solid waste among the states.

Months and months of negotiations ensued involving all interested parties and this bill, along with the chairman's amendment, is the result. It is a fair, well-crafted, and balanced bill that avoids the extremes at both ends.

Mr. Chairman, we have made great progress in dealing with solid waste in this country. Last year's implementation of the subtitle D landfill regulations means that waste in the future will be disposed of in well-designed, responsibly managed landfills with adequate lining, cover and systems for controlling leachate and methane gas. Source reduction and recycling are restraining the volume of waste.

These are important steps forward, but they will ultimately mean little if some communities simply dump their waste willy-nilly in someone else's backyard. Out of sight, out of mind.

This legislation encourages all American communities to deal responsibly with the waste they generate.

It will not close the door to interstate shipments. Modern landfills can cost \$750,000 per acre and few lightly populated areas can afford such facilities without revenues from out-of-state waste. Many will want to attract out-of-state waste.

This legislation merely strengthens the hand of affected local governments in dealing with out-of-state interests. It gives them back a measure of control over their destinies, a measure of control they lost when the Supreme Court handed down its 1992 decision, and I urge its immediate passage.

Mr. Chairman, I would like to extend my deep thanks to the staff on the Committee who gave their talent and time to help write a good bill. They are:

Roger Goodman, Keith Cole, Dick Frandsen, Judy Borger, Jim Matthews, Troy Timmons, and Jennifer Hamann.

Mr. OXLEY. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. SWIFT. Mr. Chairman, I have just one more speaker.

Mr. Chairman, I yield 5 minutes to the gentleman from Virginia [Mr. BOUCHER], the author of the legislation.

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Mr. BOUCHER. Mr. Speaker, I thank the gentleman from Washington [Mr. SWIFT] for yielding this time to me,

and also commend him for the excellent leadership he has provided in bringing this very thoughtful measure to the floor today.

Each year 15 million tons of municipal solid waste are transported across State borders for disposal. In all too many instances, that garbage is dumped in privately owned landfills sited over the opposition of local residents and over the opposition of the local government of the host community.

Under a series of Supreme Court decisions, neither States nor their localities may erect barriers to the flow of out-of-State waste into private landfills unless Congress specifically authorizes those barriers.

In response to a course of complaints from citizens, from local governments, and from State officials of the importing States, H.R. 4779, before the committee today, proposes a thoughtful set of rules under which some limitations can be imposed on the flow of garbage from out-of-State.

The premise of the bill is that the local government of the host community should have the power under Federal law to approve or disapprove of the importation of waste into privately owned local landfills. The measure assures that in the future out-of-State waste may not be deposited in those landfills unless the local government of the community in which the landfill is located has given its consent to that importation through the execution of a host community agreement.

Existing investment in private landfills will be protected, as will the ability of exporting communities to utilize out-of-State facilities for the duration of contracts which they have entered into governing the flow of waste, the collection of waste, and the removal of it from their communities.

The legislation is the product of more than 3 years of work by a large number of Members and their staffs, the committee staff, and the interested external community, including the National Association of Counties, a number of individual States and local governments, and representatives of industry. The measure carefully balances the often competing needs of these affected parties.

Mr. Chairman, I particularly again want to commend the outstanding chairman of our subcommittee, the gentleman from Washington [Mr. SWIFT], for the superb work he has done on a host of measures, and particularly on this legislation. The gentleman exhibited great patience as we resolved the many initial differences that were inherent in this debate.

I also want to thank for their many contributions, the gentleman from Michigan [Mr. UPTON], my principal co-sponsor from whom the committee just heard, and also the gentleman from Michigan [Mr. BONIOR], both of whom

have greatly aided our effort to bring the measure to the floor today.

The gentleman from Ohio [Mr. OXLEY], the gentleman from Michigan [Mr. DINGELL], the gentleman from Indiana [Mr. SHARP], the gentleman from Oregon [Mr. WYDEN], the gentleman from Pennsylvania [Mr. GREENWOOD], the gentleman from New York [Mr. MANTON], and a number of others, have made significant contributions to the measure as well.

The bill is a major step towards resolution of a particularly troublesome practice. It will assure that in the future waste that is shipped across State lines only goes where it is wanted. No longer will it be forced on unwilling communities. It is a thoughtful and balanced measure, and I am pleased, Mr. Chairman, to urge that it be approved.

Mr. BONILLA. Mr. Chairman, I rise in support of this legislation which respects and enforces the rights of local government. H.R. 4779, The State and Local Government Interstate Waste Control Act of 1994 gives local communities the authority to regulate the amount of imported out-of-State waste. This bill will require landfill operators to acquire authorization from local authorities to import out-of-State municipal waste. There are too many communities in our country who have absolutely no control over waste from other States. This is not right.

In my own district we have seen the impact of out-of-State waste on small communities. Today, New York City is dumping its sludge on the people of Sierra Blanca, TX. Recent Federal court decisions have left local governments powerless to regulate the importation of out-of-State municipal waste. States should attempt to manage their own waste problems and local communities should at least have some say in interstate waste contracts. This legislation helps bring accountability and responsibility to waste disposal. States like New York must learn to solve their own waste problems and stop exporting trash. This bill gives communities the power to exercise their democratic rights to say "yes" or "no" to out-of-State waste. I urge my colleagues to vote for this legislation.

Ms. LONG. Mr. Chairman, I thank the distinguished gentleman, Mr. SWIFT, for putting together this thoughtful piece of legislation, and Mr. BOUCHER, the sponsor of H.R. 4779. I also wish to acknowledge Mr. OXLEY for his thoughtful contributions to this bill. In addition, I commend Chairman DINGELL, whose leadership proved to be the linchpin in ensuring the consideration of this bill on the floor.

Finally, I express my appreciation for the work of Mr. SHARP, a Member whose diligence, aptitude, and resilience have enabled him to thoughtfully reshape many of our Nation's energy policies during his years of service in

the House. He will be missed by those of this Chamber, but especially by fellow Hoosiers.

Mr. Chairman, on balance, I believe H.R. 4779, as reported, to be a fair piece of legislation that will be critical to alleviating the pressures that some States are experiencing with regard to imports of solid waste. Without this legislation, States like my home State of Indiana, which work hard to effectively manage their solid waste, will continue to be undermined. States like Indiana have been hard at work to responsibly manage their solid waste, and to reduce landfilled waste. However, the current legal framework paradoxically leaves Indiana helpless against generators of waste from other States who continue to fill up their landfill resources.

This bill give the States the option of saying "no" to waste sent from out of State for disposal. For instance, if a State or local community finds that a proposed new waste disposal facility, or expansion of an existing facility, does not fit within the affected community's disposal capacity projections, then that community or State can deny the facility proposal.

Mr. Chairman, as you may know, many local communities have established solid waste management districts, which are charged with assessing their locality's future solid waste capacity needs. These assessments are then forwarded to State authorities for inclusion in a comprehensive solid waste management plan. Indiana has such a plan. However, due to a number of court decisions over the years, these management plans have been useless when States attempt to use them to effectively manage their solid waste, or reduce landfilled waste.

This legislation will empower States and localities to use these solid waste management plans as a means of refusing out-of-State waste if this waste proves to be inconsistent with the local needs assessment.

Indiana recently enacted a law which has provisions similar to those contained in H.R. 4779. This law is designed to provide consistency between the needs of local communities and the needs of the State in general, and to be integrated with States' solid waste management district's plans for future disposal capacity. I believe H.R. 4779 will provide the same coherence, and I urge my colleagues to support its passage.

Mr. MCDADE. Mr. Speaker, I rise in strong support of the Interstate Waste Control Act, a bill which will give Pennsylvania and other States the authority to take back control of their borders and regulate the flow of interstate waste. The enactment of this bill will bring some measure of rationality and balance to the waste management business. I believe it effectively balances the rights of communities, along with their health and welfare concerns, with the needs of commerce.

For the last 8 years, I have been working on the passage of interstate waste legislation, an issue which is of great concern to me and my constituents. As an original sponsor of the Pennsylvania delegation's Interstate Waste Control Act, it gives me great pleasure to stand in support of this bill which contains many provisions drafted into my original bill. As a member of the working group which crafted this critical legislation, I am pleased to report that this bill is the fruit of a bipartisan agreement which has been diligently designed and represents over 2 years of hard but fair negotiations.

I want to commend the Pennsylvania delegation and the Governor of our great Commonwealth for working together on this critical issue. Passage of this vital legislation will empower the Governors to freeze all out-of-State imports at 1993 levels and ratchet down import levels by 50 percent over 5 years. Currently, Pennsylvania receives over 4 million tons of imported waste a year making it the No. 1 importing State in the Nation. The dumping of this waste brings health hazards and heavy truck traffic to the host communities accompanied with a burdensome reduction in the quality of life. Hopefully, full congressional approval of this measure will help to reverse this trend by helping neighboring States to become responsible for the disposal of their own waste within their borders.

As out-of-State imports increase over time, our local capacity to handle in-State waste is being consumed. Clearly, it is every State's prerogative to save this disposal capacity for its own citizens. In spite of many Governors' actions to restrain the importation of waste, the courts have overruled their actions as a unilateral violation of the Constitution's interstate commerce clause. The courts have ruled that only through congressional action can the Governors' limits on imported waste be validated. Consequently, it is appropriate that we exercise our constitutionally granted authority to help bring some measure of rationality to the waste management business. I am pleased to inform my colleagues that no State limitation in this bill is deemed to violate the interstate commerce clause.

Mr. Speaker, I therefore urge my colleagues to support passage of the Interstate Waste Control Act, a bipartisan and equitable solution to the Nation's interstate waste crisis.

Mr. TOWNS. Mr. Chairman, I rise in opposition to the bill H.R. 4779. Essentially, it is aimed directly at my State, New York, because we are the major waste exporting State. Yet almost every State exports some waste, and—like New York—also import wastes from other States. That is the nature of waste flow today, and the geographic and economic forces that govern it. Almost every major metropolitan area will be hurt by this bill.

The irony of this bill is that it affords no additional environmental protection to the communities who do not want waste. They get consideration only if a facility wants to bring in out-of-State waste, from in-State wastes they get no protection. Indeed, the bill makes clear that permit violations, which represent some environmental danger, jeopardize the out-of-State flow, but not the in-State flow. Garbage is garbage, and our Federal laws should be about protecting health and the environment, not imposing burdens to ignite political battles.

I am happy to see the principle of local control and local consent in this bill. It makes a fine start for when Congress takes up reauthorization of our solid waste disposal statute. I am concerned to see it here subordinated to the whims of State enforcement, where protection may vary from community to community, and the opening this leaves for discrimination.

Geography has made New York one of the key players in the development of interstate commerce. We were involved in one of the early landmark Supreme Court cases. Today, the city hosts many jobs which are held by residents of neighboring States. The geography of the city has always meant that the city and State boundaries do not represent its logical limits. New York may be the largest city facing this problem, but geography will also make this bill detrimental to Chicago, Philadelphia, Seattle, and many other cities.

I do not want out wastes to travel where they are not wanted by local communities, nor to facilities that are not environmentally safe. But what I observe here is an effort to make some garbage seem more threatening than others, without enhancing the safety of anyone's environment.

I urge my colleagues to oppose this bill.

Mr. SWIFT. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute now printed in the bill shall be considered under the 5-minute rule by sections and each section shall be considered as read.

The bill shall be considered for amendment under the 5-minute rule for a period not to exceed 4 hours, excluding time consumed by recorded votes and proceedings incidental thereto.

Any amendment offered by the chairman of the Committee on Energy and Commerce or his designee may amend portions of the bill not yet read for amendment.

The Clerk will designate section 1.

The text of section 1 is as follows:

H.R. 4779

*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 "State and Local Government Interstate Waste Control Act of 1994".*

Mr. MANTON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I had intended to offer an amendment in the nature of a substitute on behalf of myself and the gentlewoman from New York [Ms. MOLINARI].

I have decided, after discussions with the proponents of the bill, not to offer our amendment. I will, however, at the appropriate time offer a minor en bloc amendment, which I believe has been agreed to by all parties.

However, I want to take this opportunity to outline for my colleagues some of the problems with H.R. 4779 as

reported and discuss how my substitute would have addressed these shortcomings.

First, and foremost, I support the concept that local communities should have the final say in whether or not they accept out-of-State municipal solid waste for disposal. But, I believe the bill will preempt local decision making in certain regards and grants too much authority to the States.

I believe the bill also addresses the problems associated with the interstate transportation of waste in a manner which will create chaos in the markets for the disposal of municipal solid waste and will ultimately work to the detriment of every State in the Nation.

This is particularly true for the relatively short "grandfather" of spot market waste. The 3 years envisioned by the bill simply does not provide enough time for exporting communities to identify and develop alternative disposal options. While it is true that some States may extend this period out to 6 years through the exercise of a "ratchet," the percentage reductions in the amount of waste allowed to be exported are too great and established too quickly.

I continue to have substantial concerns over the so-called needs provision of the bill. It is my interpretation of the legislation that a local government could change its mind after it had executed a valid, host community agreement, by asking their Governor to deny a permit for a facility expansion. Similarly, we believe a Governor would be able to deny a facility expansion, not based on environmental concerns, but on the premise that the additional space was not needed under the State's solid waste management plan.

In both cases, we could see the invalidation of host community agreements or legally binding contracts.

Another concern, which I understand will not be dealt with today, is the issue of construction and demolition debris. This material is currently included in the definition of municipal solid waste under the bill. This provision will make it very difficult for the construction industry to identify disposal capacity, and likely interfering with the economic recovery this is now experiencing.

Mr. Chairman, the Manton-Molinari substitute amendment would have addressed these and other concerns we have with the bill. Basically, the substitute proposed to:

Ensure that contracts would be absolutely protected under the terms of the bill.

Provide a longer grace period or grandfather for spot market waste and modify the proposed percentage reductions or ratchets.

Establish the U.S. Environmental Protection Agency as the repository and verifier of the information establishing beleaguered State status as defined in the legislation.

Modify the provisions for denying a permit to a facility which sought to accept out-of-State municipal solid waste.

Delete construction and demolition debris from the definition of municipal solid waste.

Eliminate the double standard inherent in the bill that would allow a non-complying facility to ban the receipt of out-of-State waste while it remains open to the receipt of in-State waste.

Limit the application of surcharge fees on the receipt of out-of-State municipal solid waste.

Mr. Chairman, in the spirit of comity and the belief that all parties are acting in good faith, I have decided not to offer my substitute. I believe these very real concerns will continue to be discussed.

The CHAIRMAN. Are there amendments to section 1?

If not, the Clerk will designate section 2.

The text of section 2 is as follows:  
**SEC. 2. INTERSTATE TRANSPORTATION AND DISPOSAL OF MUNICIPAL SOLID WASTE.**

(a) *IN GENERAL.*—Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) is amended by adding after section 4010 the following new section:

**"SEC. 4011. INTERSTATE TRANSPORTATION AND DISPOSAL OF MUNICIPAL SOLID WASTE.**

**"(a) RESTRICTION ON RECEIPT OF OUT-OF-STATE WASTE.—**

**"(1) IN GENERAL.—**

**"(A) AUTHORIZATION.**—A landfill or incinerator in a State may not receive for disposal or incineration any out-of-State municipal solid waste unless the owner or operator of such landfill or incinerator obtains explicit authorization (as part of a host community agreement) from the affected local government to receive the waste.

**"(B) REQUIREMENTS FOR AUTHORIZATION.**—An authorization granted pursuant to subparagraph (A) shall—

**"(i) be granted by formal action at a meeting;**

**"(ii) be recorded in writing in the official record of the meeting; and**

**"(iii) remain in effect according to its terms.**

**"(C) DISCRETIONARY TERMS AND CONDITIONS.**—An authorization granted pursuant to subparagraph (A) may specify terms and conditions, including an amount of out-of-State waste that an owner or operator may receive and the duration of the authorization.

**"(D) NOTIFICATION.**—Promptly, but not later than 90 days after an authorization is granted, the affected local government shall notify the Governor, contiguous local governments, and any contiguous Indian tribes of an authorization granted under this subsection.

**"(2) INFORMATION.**—Prior to seeking an authorization to receive out-of-State municipal solid waste pursuant to this subsection, the owner or operator of the facility seeking such authorization shall provide (and make readily available to the Governor, each contiguous local government and Indian tribe, and any other interested person for inspection and copying) the following information:

**"(A) A brief description of the facility, including, with respect to both the facility and any planned expansion of the facility, the size, ultimate waste capacity, and the anticipated monthly and yearly quantities of (expressed in terms of volume) waste to be handled.**

**"(B) A map of the facility site indicating location in relation to the local road system and topography and hydrogeological features. The**

map shall indicate any buffer zones to be acquired by the owner or operator as well as all facility units.

"(C) A description of the then current environmental characteristics of the site, a description of ground water use in the area (including identification of private wells and public drinking water sources), and a discussion of alterations that may be necessitated by, or occur as a result of, the facility.

"(D) A description of environmental controls typically required to be used on the site (pursuant to permit requirements), including run on or run off management (or both), air pollution control devices, source separation procedures (if any), methane monitoring and control, landfill covers, liners or leachate collection systems, and monitoring programs. In addition, the description shall include a description of any waste residuals generated by the facility, including leachate or ash, and the planned management of the residuals.

"(E) A description of site access controls to be employed, and roadway improvements to be made, by the owner or operator, and an estimate of the timing and extent of increased local truck traffic.

"(F) A list of all required Federal, State, and local permits.

"(G) Estimates of the personnel requirements of the facility, including information regarding the probable skill and education levels required for jobs at the facility. To the extent practicable, the information shall distinguish between employment statistics for preoperational and postoperational levels.

"(H) Any information that is required by State or Federal law to be provided with respect to any violations of environmental laws (including regulations) by the owner, the operator, and any subsidiary of the owner or operator, the disposition of enforcement proceedings taken with respect to the violations, and corrective action and rehabilitation measures taken as a result of the proceedings.

"(I) Any information that is required by State or Federal law to be provided with respect to gifts and contributions made by the owner or operator.

"(J) Any information that is required by State or Federal law to be provided with respect to compliance by the owner or operator with the State solid waste management plan.

"(3) NOTIFICATION.—Prior to taking formal action with respect to granting authorization to receive out-of-State municipal solid waste pursuant to this subsection, an affected local government shall—

"(A) notify the Governor, contiguous local governments, and any contiguous Indian tribes;

"(B) publish notice of the action in a newspaper of general circulation at least 30 days before holding a hearing and again at least 15 days before holding the hearing, except where State law provides for an alternate form of public notification; and

"(C) provide an opportunity for public comment in accordance with State law, including at least 1 public hearing.

"(b) AUTHORIZATION NOT REQUIRED FOR CERTAIN FACILITIES.—

"(1) IN GENERAL.—A landfill or incinerator may receive for disposal or incineration out-of-State municipal solid waste in the absence of an authorization under subsection (a) if each of the following requirements are met:

"(A) The owner or operator shall provide either of the following to the Governor or the State in which the landfill or incinerator is located and to the affected local government:

"(i) Information establishing that, before the date of the enactment of this section, the owner or operator of the landfill or incinerator has entered into a host community agreement or re-

ceived a State permit, specifically authorizing the owner or operator to accept, at the landfill or incinerator, out-of-State municipal solid waste. This clause shall be effective only if the owner or operator complies with all of the terms and conditions of the host community agreement or permit and, in the case of a permit, notifies the affected local government of the permit, as soon as practicable but not later than 90 days after the date of enactment of this section.

"(ii) Information establishing that during 1993, the landfill or incinerator received shipments of out-of-State municipal solid waste. Such information shall be in such documented form as will result in criminal penalties under State law in case of false or misleading information. Such information shall include information about the date of shipment, place of origin of the waste, and the type of waste.

"(B) In the case of a landfill or incinerator in operation on the date of the enactment of this section, the landfill or incinerator must be in compliance as of such date with applicable Federal and State environmental laws (including regulations), including, in the case of landfills, applicable laws and regulations relating to design and location standards, leachate collection, ground water monitoring, and financial assurance for closure and post-closure care and corrective action.

"(2) AMOUNT RECEIVED UNDER PARAGRAPH (1)(A)(ii).—

"(A) STATES NOT EXERCISING RATCHET AUTHORITY UNDER (c)(5).—

"(i) FACILITIES COVERED.—This subparagraph shall cover only landfills and incinerators in States which do not establish a limit on out-of-State municipal solid waste under subsection (c)(5).

"(ii) WASTE UNDER CONTRACT.—For any landfill or incinerator covered by this subparagraph and authorized to receive out-of-State municipal solid waste pursuant to paragraph (1)(A)(ii), if out-of-State municipal solid waste was received at such landfill or incinerator during 1993 under a contract, paragraph (1)(A)(ii) shall apply to the amount of out-of-State municipal solid waste specified in the contract for the longer of the following periods:

"(I) The life of the contract.

"(II) The period ending 3 years after the enactment of this section.

For purposes of subclause (I), the term 'life of the contract' shall not include any renewal, novation, or other extension thereof (as determined under State law).

"(iii) SPOT WASTE.—For a landfill or incinerator covered by this subparagraph and authorized to receive out-of-State municipal solid waste pursuant to paragraph (1)(A)(ii), if out-of-State municipal solid waste was received at such landfill or incinerator during 1993 in the absence of a contract, paragraph (1)(A)(ii) shall apply to the receipt of out-of-State municipal solid waste for a period ending 3 years after the enactment of this section.

"(iv) CONTRACT AND SPOT WASTE.—For any landfill or incinerator covered by this subparagraph and authorized to receive out-of-State municipal solid waste pursuant to paragraph (1)(A)(ii), if out-of-State municipal solid waste was received at such landfill or incinerator during 1993 both under a contract and otherwise, clause (ii) shall apply with respect to the waste received under the contract and clause (iii) shall apply to the other municipal solid waste received at the landfill or incinerator.

"(B) STATES EXERCISING RATCHET AUTHORITY UNDER (c)(5).—

"(i) FACILITIES COVERED.—This subparagraph shall cover only landfills and incinerators in States which establish a limit on out-of-State municipal solid waste under subsection (c)(5).

"(ii) WASTE UNDER CONTRACT.—For any landfill or incinerator covered by this subparagraph

and authorized to receive out-of-State municipal solid waste pursuant to paragraph (1)(A)(ii), if out-of-State municipal solid waste was received at such landfill or incinerator during 1993 under a contract, paragraph (1)(A)(ii) shall apply to the amount of out-of-State municipal solid waste specified in the contract for the longer of the following periods:

"(I) The life of the contract.

"(II) The period ending January 1, 2000.

For purposes of subclause (I), the term 'life of the contract' shall not include any renewal, novation, or other extension thereof (as determined under State law).

"(iii) SPOT WASTE.—For a landfill or incinerator covered by this subparagraph and authorized to receive out-of-State municipal solid waste pursuant to paragraph (1)(A)(ii), if out-of-State municipal solid waste was received at such landfill or incinerator during 1993 in the absence of a contract, paragraph (1)(A)(ii) shall apply to the receipt of out-of-State municipal solid waste for a period ending January 1, 2000.

"(iv) CONTRACT AND SPOT WASTE.—For any landfill or incinerator covered by this subparagraph and authorized to receive out-of-State municipal solid waste pursuant to paragraph (1)(A)(ii), if out-of-State municipal solid waste was received at such landfill or incinerator during 1993 both under a contract and otherwise, clause (ii) shall apply with respect to the waste received under the contract and clause (iii) shall apply to the other municipal solid waste received at the landfill or incinerator.

"(3) AVAILABILITY OF DOCUMENTATION.—The owner or operator of a landfill or incinerator which is exempt under paragraph (1) of this subsection from the requirements of subsection (a) shall provide to the State and affected local government, and make available for inspection by the public in the affected local community, a copy of the host community agreement or other documentation required under paragraph (1). The owner or operator may omit any proprietary information contained in the contracts, but shall ensure that at least the following information is apparent: the volume of out-of-State municipal solid waste to be received, the source of the waste, and the duration of the contract.

"(4) DENIED OR REVOKED PERMITS.—A landfill or incinerator may not receive for disposal or incineration out-of-State municipal solid waste in the absence of a host community agreement if the operating permit or license for the landfill or incinerator (or renewal thereof) was denied or revoked by the appropriate State agency before the date of enactment of this section unless such permit or license (or renewal) has been reinstated as of such date of enactment.

"(5) WASTE WITHIN BI-STATE METROPOLITAN STATISTICAL AREAS.—The owner or operator of a landfill or incinerator in a State may receive out-of-State municipal solid waste without obtaining authorization under subsection (a) from the affected local government if the out-of-State waste is generated within, and the landfill or incinerator is located within, the same bi-State level A metropolitan statistical area (as defined by the Office of Management and Budget and as listed by the Office of Management and Budget as of the date of enactment of this section) which contains two contiguous major cities each of which is in a different State.

"(c) AUTHORITY OF STATE TO RESTRICT OUT-OF-STATE MUNICIPAL SOLID WASTE.—

"(1) LIMITATIONS ON AMOUNT OF WASTE RECEIVED.—

"(A) LIMIT FOR ALL FACILITIES IN THE STATE.—A State may limit the amount of out-of-State municipal solid waste received annually for disposal at each landfill or incinerator in the State to the limitation amount described in paragraph (2), except as provided in this subsection. No such limit may conflict—

"(i) with provisions of a permit specifically authorizing the owner or operator to accept, at the facility, out-of-State municipal solid waste, or

"(ii) with a host community agreement entered into between the owner or operator of any such landfill or incinerator and the affected local government.

"(B) CONFLICT.—A limit referred to in subparagraph (A) shall be treated as conflicting with a permit or host community agreement if—

"(i) the permit or host community agreement establishes a higher limit, or

"(ii) the permit or host community agreement does not establish any limit,

on the amount of out-of-State municipal solid waste which may be received annually at the facility.

"(C) LIMIT FOR PARTICULAR FACILITIES.—At the request of an affected local government that has not executed a host community agreement, the State may limit the amount of out-of-State municipal solid waste received annually for disposal at the landfill or incinerator concerned to the limitation amount described in paragraph (2). No such limit may conflict with provisions of a permit specifically authorizing the owner or operator to accept, at the facility, out-of-State municipal solid waste.

"(D) EFFECT ON OTHER LAWS.—Nothing in this subsection shall be interpreted or construed to have any effect on any State law relating to contracts.

"(2) LIMITATION AMOUNT.—For any landfill or incinerator that commenced receiving documented out-of-State municipal solid waste before the date of enactment of this section, the limitation amount referred to in paragraph (1) for any year shall be equal to the amount of out-of-State municipal solid waste received for disposal at the landfill or incinerator concerned during calendar year 1993. The documentation referred to in this subparagraph shall be such as would result in criminal penalties in case of false or misleading information. Such documentation shall include the amount of waste received, place of origin, including the identity of the generator, date of shipment, and type of waste.

"(3) OTHER LIMITATION AMOUNT.—(A) Except as provided in subparagraph (B), the limitation amount referred to in paragraph (1) shall be zero for a landfill or incinerator authorized to receive out-of-State municipal solid waste solely by reason of receipt in calendar year 1993 of municipal solid waste that was not received under contract or otherwise authorized under this section.

"(B) The limitation amount of zero referred to in subparagraph (A) shall not be applicable to receipt of any out-of-State municipal solid waste by the landfill or incinerator if the owner or operator, on the date of enactment of this section, owned the land on which the facility that received such waste is located.

"(4) NO DISCRIMINATION.—Except as provided in paragraph (5), in establishing a limitation under this subsection, a State shall act in a consistent manner that does not discriminate against any shipments of out-of-State municipal solid waste on the basis of State of origin.

"(5) ADDITIONAL LIMIT FOR MUNICIPAL WASTE.—(A) Any State (hereinafter in this paragraph referred to as an 'importing State') that imported more than 750,000 tons of out-of-State municipal solid waste in 1993 may establish a limit under this paragraph on the amount of out-of-State municipal solid waste received pursuant to the authority of subsection (b)(1)(A)(ii) for disposal at landfills and incinerators in the importing State. A limit under this paragraph shall be in addition to, or in lieu of, any other limit imposed under this subsection. A limit under this paragraph may be imposed only if each of the following requirements are met:

"(i) The limit shall not conflict (within the meaning of paragraph (1)(B)) with any permit or host community agreement authorizing the receipt of out-of-State municipal solid waste.

"(ii) The importing State shall notify the Governor of the exporting State or States of the proposed limit at least 12 months before imposition of the limit.

"(iii) The importing State shall notify the Governor of the exporting State or States of the proposed limit at least 90 days before enforcement of the limit.

"(iv) The percentage reduction in the amount of out-of-State municipal solid waste which is received at each facility in the importing State at which a limit may be established under this paragraph shall be uniform for all such facilities.

"(B) The limit established under this paragraph shall be a percentage of the amount of out-of-State municipal solid waste generated in the exporting State during calendar year 1993 and received at facilities in the importing State in which a limit is established under this paragraph. For any calendar year after 1994, the percentage shall be as specified in the following table:

Calendar year:	Applicable Percentage:
1996 .....	85
1997 .....	75
1998 .....	65
1999 .....	55
after 1999 .....	50.

"(d) NEEDS DETERMINATION.—Any comprehensive solid waste management plan approved under Federal or State law and any implementation of such plan through the State permitting process may take into account local and regional needs for solid waste disposal capacity. An affected local government may make a determination that there is no local or regional need for a new landfill or incinerator or major modification to an existing facility in the area under the jurisdiction of the affected local government. Such determination shall be based on a finding that the proposed facility does not have a host community agreement or is inconsistent with the capacity needs established in the comprehensive solid waste management plan adopted by the affected local government pursuant to State law. No comprehensive solid waste management plan may expressly prohibit the importation of municipal solid waste from out of State.

"(e) IMPLEMENTATION AND ENFORCEMENT.—Any State may adopt such laws and regulations, not inconsistent with this section, as are necessary to implement and enforce this section, including provisions for penalties.

"(f) EFFECT ON INTERSTATE COMMERCE.—No State limitation established as provided in subsection (c), no State planning and permitting process referred to in subsection (d), and no State law or regulation referred to in subsection (e) shall be considered to impose an undue burden on interstate commerce or to otherwise impair, restrain, or discriminate against interstate commerce.

"(g) ANNUAL STATE REPORT.—Each year the owner or operator of each landfill or incinerator receiving out-of-State municipal solid waste shall submit to the Governor of the State in which the landfill or incinerator is located information specifying the amount of out-of-State municipal solid waste received for disposal during the preceding year. Each year each such State shall publish and make available to the public, a report containing information on the amount of out-of-State municipal solid waste received for disposal in the State during the preceding year.

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

"(1) AFFECTED LOCAL GOVERNMENT.—(A) For any landfill or incinerator, the term 'affected local government' shall mean—

"(i) the public body authorized by State law to plan for the management of municipal solid waste, a majority of the members of which are elected officials, for the area in which the landfill or incinerator is located or proposed to be located, or

"(ii) if there is no such body created by State law, the elected officials of the city, town, township, borough, county, or parish exercising primary responsibility for the use of land on which the facility is located or proposed to be located, except that for purposes of host community agreements entered into before the date of enactment of this section, the term shall mean either the public body described in subparagraph (A) or the elected officials of the city, town, township, borough, county, or parish exercising primary responsibility for the use of land on which the facility is located or proposed to be located.

"(B) Two or more Governors of adjoining States may use the authority provided in section 1005(b) to enter into an agreement under which contiguous units of local government located in each of the adjoining States may act jointly as the affected local government for purposes of providing authorization under subsection (a) for municipal solid waste generated in one of such counties and received for disposal or incineration in another.

"(2) HOST COMMUNITY AGREEMENT.—The term 'host community agreement' means a written, legally binding agreement, lawfully entered into between an owner or operator of a landfill or incinerator and an affected local government that specifically authorizes the landfill or incinerator to receive out-of-State municipal solid waste.

"(3) MUNICIPAL SOLID WASTE.—The term 'municipal solid waste' means all waste materials discarded for disposal by households, including single and multifamily residences, and hotels and motels. The term also includes waste materials generated by commercial, institutional, and industrial sources, to the extent such wastes are essentially the same as waste normally generated by households or were collected and disposed of with other municipal solid waste as part of normal municipal solid waste collection services, and regardless of when generated, would be considered conditionally exempt small quantity generator waste under section 3001(d). Examples of municipal solid waste include food and yard waste, paper, clothing, appliances, consumer product packaging, disposable diapers, office supplies, cosmetics, glass and metal food containers, elementary or secondary school science laboratory waste, and household hazardous waste. Such term shall include debris resulting from construction, remodeling, repair, or demolition of structures other than debris that is not otherwise commingled with other municipal solid waste and has been determined by the generator, to be contaminated. For purposes of determining whether any such debris is contaminated, the generator shall conduct representative sampling and analysis of such debris, the results of which shall be submitted to the affected local government for record keeping purposes only, unless not required by the affected local government. Any such debris that has been determined to be contaminated shall be disposed of in a landfill that meets, at a minimum, the requirements of this subtitle. The term does not include any of the following:

"(A) Any solid waste identified or listed as a hazardous waste under section 3001.

"(B) Any solid waste, including contaminated soil and debris, resulting from—

"(i) a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9604 or 9606),

"(ii) a response action taken under a State law with authorities comparable to the authorities of section 104 or 106, or

"(iii) a corrective action taken under this Act.

"(C) Recyclable materials that have been separated, at the source of the waste, from waste otherwise destined for disposal or that have been managed separately from waste destined for disposal.

"(D) Materials and products returned from a dispenser or distributor to the manufacturer or an agent of the manufacturer for credit, evaluation, and possible reuse.

"(E) Any solid waste that is—

"(i) generated by an industrial facility; and

"(ii) transported for the purpose of treatment, storage, or disposal to a facility that is owned or operated by the generator of the waste, or is located on property owned by the generator of a company with which the generator is affiliated.

"(F) Any medical waste that is segregated from or not mixed with solid waste.

"(G) Sewage sludge and residuals from any sewage treatment plant, including any sewage treatment plant required to be constructed in the State of Massachusetts pursuant to any court order issued against the Massachusetts Water Resources Authority.

"(H) Combustion ash generated by resource recovery facilities or municipal incinerators, or waste from manufacturing or processing (including pollution control) operations not essentially the same as waste normally generated by households.

"(4) **OUT-OF-STATE MUNICIPAL SOLID WASTE.**—The term 'out-of-State municipal solid waste' means, with respect to any State, municipal solid waste generated outside of the State. The term includes municipal solid waste generated outside of the United States.

"(5) **SPECIFIC AUTHORIZATION.**—For purposes of this section, the term 'specifically authorizes' refers to an explicit authorization, contained in a host community agreement or permit, to import waste from outside the State. Such authorization may include a reference to a fixed radius surrounding the landfill or incinerator which includes an area outside the State or a reference to 'any place of origin', reference to specific places outside the State, or use of such phrases as 'regardless of origin' or 'outside the State'. The language for such authorization may vary as long as it clearly and affirmatively states the approval or consent of the affected local government or State for receipt of municipal solid waste from sources or locations outside the State from which the owner or operator of a landfill or incinerator proposes to import it. The authorization shall not include general references to the receipt of waste outside the jurisdiction of the affected local government.

"(i) **COST RECOVERY SURCHARGE.**—

"(1) **AUTHORITY.**—A State may impose and collect a cost recovery surcharge on the combustion or disposal in a landfill or incinerator of out-of-State municipal solid waste in such State.

"(2) **LIMITATION.**—During the period beginning on the date of the enactment of this section and ending on December 31, 1996, a State may not impose or collect a cost recovery surcharge from a facility on any out-of-State municipal solid waste that meets both of the following conditions:

"(A) The waste is being received at the facility under one or more contracts entered into before the date of the enactment of this section.

"(B) The amount of waste being received in a calendar year under the contract or contracts does not exceed the amount of waste received at the facility during calendar year 1993.

"(3) **AMOUNT OF SURCHARGE.**—The amount of the cost recovery surcharge may be no greater than the amount necessary to recover those costs determined in conformance with para-

graph (5) and in no event may exceed \$2 per ton of waste.

"(4) **USE OF SURCHARGE COLLECTED.**—All cost recovery surcharges collected by a State shall be used to fund those solid waste management programs administered by the State or its political subdivisions that incur costs for which the surcharge is collected.

"(5) **CONDITIONS.**—(A) Subject to subparagraphs (B) and (C), a State may impose and collect a cost recovery surcharge on the combustion or disposal within the State of out-of-State municipal solid waste if—

"(i) the State demonstrates a cost to the State arising from the combustion or disposal within the State of a volume of municipal solid waste from a source outside the State;

"(ii) the surcharge is based on those costs to the State demonstrated under subparagraph (A) that, if not paid for through the surcharge, would otherwise have to be paid or subsidized by the State; and

"(iii) the surcharge is compensatory and is not discriminatory.

"(B) In no event shall a cost recovery surcharge be imposed by a State to the extent that the cost for which recovery is sought is otherwise recovered by any other fee or tax assessed against the generation, transportation, treatment, combustion, or disposal of solid waste.

"(C) The grant of a subsidy by a State with respect to entities disposing of waste generated within the State does not constitute discrimination for purposes of subparagraph (A)(iii).

"(6) **BURDEN OF PROOF.**—In any proceeding in which a State invokes this subsection to justify a cost recovery surcharge on the combustion or disposal within the State of out-of-State municipal solid waste, the State shall bear the burden of establishing that the cost recovery surcharge satisfies the conditions set forth in paragraph (5)."

"(b) **TABLE OF CONTENTS AMENDMENT.**—The table of contents of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by adding after the item relating to section 4010 the following new item:

"Sec. 4011. Interstate transportation and disposal of municipal solid waste."

The CHAIRMAN. Are there amendments to Section 2?

AMENDMENT OFFERED BY MR. MANTON

Mr. MANTON. Mr. Chairman, I offer an amendment on behalf of myself, the gentleman from New York [Mr. PAXON], the gentleman from New York [Mr. SCHUMER], the gentleman from New York [Mr. TOWNS], and the gentleman from New York [Ms. MOLINARI].

The Clerk read as follows:

Amendment offered by Mr. MANTON: Page 21, insert the following after the period on line 20: "No host community agreement that is entered into by the elected officials described in clause (ii) may be overturned by an act of a public body described in clause (i) if such body is created by State law after the execution of such host community agreement."

On page 17, beginning on line 10, strike "Except as provided in paragraph (5), in" and insert "In".

Mr. MANTON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. MANTON. Mr. Chairman, quite simply, this amendment seeks to en-

sure States will not be discriminated against under the bill. The second provision of the amendment will clarify the definition of affected local government. I believe this amendment significantly improves the bill, and I believe it is acceptable to all parties.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. MANTON].

The amendment was agreed to.

□ 1300

The CHAIRMAN. Are there other amendments to section 2?

AMENDMENT OFFERED BY MR. ZIMMER

Mr. ZIMMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ZIMMER: Page 9, line 24, strike "3 years" and insert "6 years".

Page 10, line 2, strike "not include any renewal, novation, or other extension thereof (as determined under State law)." and insert "be determined under State law."

Page 11, line 25, strike "not include any renewal novation, or other extension thereof (as determined under State law)." and insert "be determined under State law."

Page 23, line 5, strike "Such term shall include debris resulting from construction" and all that follows down through "the requirements of this subtitle." in lines 18 and 19.

Mr. ZIMMER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. ZIMMER. Mr. Chairman, I have offered this amendment on behalf of myself and the gentleman from New Jersey [Mr. PALLONE], because we believe that the bill as passed by the Committee on Energy and Commerce would create a solid waste crisis for New Jersey.

New Jersey is the most densely populated State in the Nation and is in a unique situation because it has been an importer of garbage though much of its history.

Until the 1970's, the State of New Jersey was a major net importer of waste, primarily from New York and from Philadelphia. And, in the case of New Jersey versus Philadelphia. The U.S. Supreme Court determined that New Jersey's efforts to ban out-of-State waste violated the commerce clause of the Constitution.

Landfill space that our State had relied on for long-term disposal capacity was filled by other States' waste. New Jersey began developing a solid waste plan in the 1970's, and we were the first State in the Nation to begin to do so. That plan calls for self-sufficiency in the year 2000, and we are on track.

New Jersey has reduced its solid waste exports by 50 percent since 1987, and we have spent hundreds of millions of dollars doing so. But we need more

time. We need til the end of the decade to accomplish this.

It is important to understand this background because New Jersey is not in disagreement with the ultimate goals of the legislation. New Jersey has done more extensive planning than any other State to accomplish the goals of the bill, and it should not be punished by this legislation.

We have a number of problems with this bill. It would ban the interstate transport of waste unless the host community agrees to accept the waste shipments. This idea, called a presumptive ban, is a bad idea because it would make it extremely difficult for Governors of two or more States to work together to resolve mutual problems relating to solid waste disposal.

The bill contains a provision that protects contracted waste for 3 years or the life of the contract, whichever is longer, but the language is unduly burdensome and really punishes the State of New Jersey, because in order to minimize progress in achieving self-sufficiency, New Jersey has allowed counties to enter into only short-term contracts.

New Jersey would be penalized under this bill for doing the right thing, because it would not get the benefit of the full term of the extension.

Also the bill includes construction and demolition debris in the definition of municipal solid waste. This category is exceedingly difficult to define and track and includes everything from the remains of a demolished building or road to leftover wood, pipe, or even tree stumps. This category of debris is often mixed with other categories of waste, and it is often handled by private agreements that do not involve the local government, unlike municipal solid waste which is much more often considered to be a local government responsibility.

New Jersey has had remarkable success in recycling construction and demolition debris, reducing the need for disposal by a categorywide average of more than 50 percent.

I recognize that two States are receiving large amounts of this kind of waste from Canada. However, I do not believe that the language included in the legislation has been thought out well enough, and it would place an unnecessary burden on New Jersey to accommodate an additional waste burden before needed facilities can be developed in our State.

My amendment would correct New Jersey's problems with the contract provisions in the bill and eliminate the provision relating to construction and demolition debris. However, I do not intend to ask for a vote on this amendment. I will withdraw it, because it is my understanding that an agreement has been reached on the contract portion of the legislation. That agreement will be reflected in an amendment to

be submitted by the gentleman from New Jersey [Mr. PALLONE] and myself shortly.

I believe that all of New Jersey's major problems must be addressed before I can support this legislation. However, I will withdraw this amendment in favor of the amendment just described that will deal exclusively with the contracts issue.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The CHAIRMAN. Are there further amendments to section 2?

AMENDMENT OFFERED BY MR. PALLONE

Mr. PALLONE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PALLONE: Page 9, line 24, strike "3 years" and insert "6 years".

Mr. PALLONE. Mr. Chairman, I rise to offer this amendment with my colleague, the gentleman from New Jersey [Mr. ZIMMER]. The amendment would allow facilities receiving out-of-State waste under existing contracts to continue to do so for the life of the current contract or for six years after enactment.

New Jersey's current contracts to export waste should be protected until the end of the decade, pursuant to this amendment. New Jersey now has several contracts due to expire and an inability to renew under the House approach in this bill would impair New Jersey's ability to obtain self-sufficiency.

A great deal of the solid waste which New Jersey exports for disposal is being done under disposal contracts which were entered into in good faith according to the laws and regulations in effect at the time they were entered into. Since New Jersey has been trying to encourage counties to develop the means to dispose of waste within the State, as my colleague, the gentleman from New Jersey [Mr. ZIMMER], mentioned, most of our contracts are due to expire in the next 2 years. These contracts must be protected at least through the year 2000, if we are going to achieve self-sufficiency within our State.

To change the ground rules at this point in time and declare these contracts void would, in my opinion, be extremely unfair and would go against all the planning which we have done in New Jersey, which, as Members know, has tried and is really moving in the direction of self-sufficiency.

Proponents of the bill have said that they do not want communities to receive in perpetuity waste that they never agreed to accept in the first place. This amendment keeps to that concept, in my opinion, Mr. Chairman, but merely allows 3 additional years for exporters to eliminate flows.

Mr. OXLEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the gentleman's amendment and wish to associate myself with his remarks. I believe this amendment will improve the bill and I urge my colleagues to support the gentleman's amendment. This amendment would extend the protections for shipments under contract from the current 3 years to 6 years. I urge my colleagues to support the amendment.

Mr. SWIFT. Mr. Chairman, will the gentleman yield?

Mr. OXLEY. I yield to the gentleman from Washington.

Mr. SWIFT. Mr. Chairman, I, too, would like to say that we support the amendment on this side. We urge its adoption.

Mrs. ROUKEMA. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I rise in support of the Zimmer-Pallone amendment to the solid waste legislation before us today. This amendment will ensure that facilities currently receiving out-of-State waste under existing contracts can continue doing so for up to 6 years after this bill's date of enactment.

Disposal Capacity in New Jersey has been overtaken by out-of-State waste. We have reduced our own solid waste disposal.

We have been consistent in our own planning with goals of this bill.

Mr. ZIMMER has correctly outlined the provisions in the bill that would penalize New Jersey for having "done the right thing."

The bipartisan amendment deserves our strong support for current contracts.

This change is vital for States like New Jersey, because the original bills' language would have protected these contracts for only 3 years, which the Commissioner of our State's Department of Environmental Protection [DEP] believes could "precipitate a solid waste crisis" if this measure were enacted as currently drafted.

Consequently, the Zimmer-Pallone amendment allows New Jersey to continue implementing its long-term plan to become self-sufficient with respect to solid waste by the year 2000.

In addition, adopting this amendment will avoid the dangerous scenario of many local governments in New Jersey not having the means to dispose of their solid waste after their existing, short-term contracts expire, while they wait for new in-State solid waste disposal facilities to come on line and statewide recycling and source reduction efforts to fully phase-in in the near term.

It's ironic that H.R. 4779, as reported by the Energy and Commerce Committee, seeks to penalize States that export solid waste. In the early 1970's,

New Jersey was one of the first States that sought to ban the importation of solid waste only to have the Supreme Court rule that Congress must give State and local governments this authority—the Court held that States cannot ban out-of-State imported waste on their own.

Once the courts denied the State the ability to ban the importation of solid waste, New Jersey embarked on a long-term solid waste self-sufficiency plan. Environmentally unsound landfills were closed, which reduced our own State's capacity.

With less in-state capacity, New Jersey began exporting surplus solid waste to States in the Midwest, while it also began the long process of bringing on-line new, environmentally safe in-state capacity, reducing solid waste sources, and instituting an aggressive recycling campaign.

Well, here we are 20 years later, and absent some significant changes, this bill will penalize New Jersey, and wreak havoc on the State's good faith effort to become self-sufficient regarding solid waste in the next 6 years.

Most of the solid waste that New Jersey currently exports to other States is being handled under contracts that local governments in our State and in other States have entered into in good faith and in accordance with all relevant rules and regulations. The bill's original language that fails to protect these agreements for more than 3 years must be changed, and that's exactly why the Zimmer-Pallone amendment must be adopted.

While the adoption of this amendment would represent an important improvement for States like New Jersey, I remain very seriously concerned about the damage that this overall package, as currently crafted, would do to the State of New Jersey.

DEP Commissioner Robert Shinn has written a letter to the entire New Jersey delegation detailing the State's objections to H.R. 4779. At the same time, the State has expressed its view that the Senate version of this bill, S. 2345, is far more preferable.

I hope that when the conference committee meets to write the final version of this important legislation that the interests of States that export solid waste, like New Jersey, can be accommodated instead of being ignored. As such, I hope that as much of the Senate bill as possible can be incorporated into the final conference committee report.

Simply put, this issue is too important to become a victim of petty politics between importing and exporting States. New Jersey is well on its way to becoming self-sufficient very shortly.

I hope that any solid waste disposal legislation that we enact this year allows our State to continue its efforts to achieve this noteworthy goal without undue roadblocks or interference.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. PALLONE].

The amendment was agreed to.

□ 1310

AMENDMENT OFFERED BY MR. SMITH OF NEW JERSEY

Mr. SMITH of New Jersey. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SMITH of New Jersey: Page 10, line 2, strike "not include any renewal, novation, or other extension thereof (as determined under State law)." and insert "be determined under State law."

Page 11, line 25, strike "not include any renewal, novation, or other extension thereof (as determined under State law)." and insert "be determined under State law."

Mr. SMITH of New Jersey (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. SMITH of New Jersey. Mr. Chairman, I appreciate the opportunity to speak today on the State and Local Government Interstate Waste Control Act of 1994 (H.R. 4779). The amendment I am offering to protect existing interstate contracts is absolutely crucial to my home State of New Jersey, as well as neighboring New York and other States which export some amount of their municipal solid waste for disposal.

During the 1970's and the early 1980's, several States—particularly New Jersey, New York, and others in the Northeast—suffered from a solid waste management crisis. Costs for disposal skyrocketed and taxpayers paid through the nose for basic trash removal and disposal. Environmental protection standards—where they even existed—were neglected. Taxpayers are still paying for this in the form of the numerous Superfund sites and other sites of environmental degradation which spot the Nation.

At that time, Mr. Chairman, New Jersey was the No. 1 importer of municipal solid waste from other States. New Jersey is now the No. 2 exporter of municipal solid waste, second only to New York.

Over the past two decades, New Jersey has undertaken an ambitious and comprehensive strategy to meet the basic waste disposal needs of its residents and protect the delicate environment of the Garden State. As a part of this plan, the State has recognized the need to become self-sufficient in its solid waste management and to end its dependence on other States—such as Pennsylvania and some Midwestern States—for disposal.

New Jersey has made a concerted good faith effort to reduce its exports

of municipal solid waste. In fact, since 1989, the State has exported a decreasing volume of waste each year. The New Jersey Department of Environmental Protection [DEP] estimates that the State can achieve self-sufficiency by the year 2000—but only if we are permitted to continue to pursue the point-by-point strategy the State painstakingly plotted and has methodically carried out. As written, the presumptive ban of H.R. 4779 denies us the time and flexibility needed to achieve this.

Under existing State law, each of the 21 New Jersey counties and the Hackensack Meadowlands Commission are designated as solid waste management districts and charged with developing an integrated solid waste management plan for waste within their boundaries. The integrated plans include not only collection and disposal of waste, but also required baseline standards for recycling and educational programs to promote personal responsibility for litter and trash creation. Each district's plan must be approved by the State.

The Department of Environmental Protection carefully links the 22 individual plans to meet the guidelines for an integrated State solid waste management plan. For example, the State encourages counties to share transfer stations, waste-to-energy facilities, landfills, composting facilities, and recycling facilities.

Mr. Chairman, the State has taken an increasingly hard line approach to approving contracts which involve the export of waste to other States. Traditionally, New Jersey counties had entered into long-term contracts for out-of-State waste disposal. In recent years, however, the DEP, has conditioned approval on reduced terms of the contract to keep in line with the December 31, 1999, goal of self-sufficiency.

For example, last year, a New Jersey county submitted to the State a 10-year contract for out-of-State disposal, which would have ended in 2003. The DEP approved the contract for an initial time period of 2 years and required the county to adhere to a series of milestones leading to full in-State disposal in the long term. As the required milestones are met by the county, the DEP would authorize a 3-year renewal on the initial 2-year contract. This example is consistent with the course of action the State has taken with several of its major exporting counties.

My amendment is necessary to allow the DEP to continue this type of manipulation of solid waste management by the counties toward full in-State disposal. The simple change in wording of my amendment ensures that the additional 3 years referenced in the above example could not be considered outside of the life of the contract by an importing State's legislature and therefore unprotected.

For many of the major importing States, advocacy of a ban on interstate waste transport has become a politically charged issue. It is easy to say that "Pennsylvania should not accept any New Jersey waste;" but it is not so easy to plot a responsible strategy for where that waste should then go. New Jersey has both recognized the need to stop exporting waste and created a strategy to reach self-sufficiency by the year 2000.

Unamended, H.R. 4779 ties the hands of those States already caught between a rock and a hard place—like New Jersey—and could easily precipitate a second solid waste crisis in the Northeast and elsewhere. We all recognize the realities of this issue—everyone creates trash, no one wants it in his hometown, and unquestionably no one wants to be responsible for putting it in someone else's hometown; but it has to go somewhere. New Jersey is working to deal with this matter in a way reduces the potential for environmental disaster in the future and avoids increasing the already heavy burden on taxpayers. Passing H.R. 4779 ignores this good faith effort and the successes which it has already achieved. With this kind of carrot, who needs a stick?

Finally, Mr. Chairman, let me say that I intend to withdraw this amendment as part of a good faith agreement reached by New Jersey and the leading importing States. It is only through the withdrawal of my amendment and the other amendments offered by several of my New Jersey colleagues that the Pallone-Zimmer amendment to protect existing contracts for up to 6 years after enactment of this legislation was able to have just been approved by a voice vote. Both New Jersey and New York have been steadfast in negotiating with the leading importing States over this legislation and generally over this issue, and it is through this sort of 11th hour negotiating that these States have come to this agreement.

Mr. Chairman, I ask unanimous consent that my amendment be withdrawn as part of that agreement.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The CHAIRMAN pro tempore. The amendment is withdrawn.

Mr. SHARP. Mr. Chairman, I move to strike the last word.

Mr. Chairman, myself, the gentleman from Pennsylvania [Mr. GREENWOOD], and several of us from the importing States have announced a number of amendments we would like to have offered. Because we have been able to negotiate with our colleagues from the exporting States and they have withheld on some of their amendments, we are simply wanting to indicate to our colleagues that we are going to withhold on our amendments, recognizing

that we think that our interests and their interests are better served through negotiation, rather than a fight over some of the details here among our entire colleagues.

Mr. GREENWOOD. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would simply like to echo the words of the gentleman from Indiana [Mr. SHARP], who indicates we had been prepared to offer a series of amendments to strengthen this bill. There were a total of more than 20 amendments that we would have dealt with today. By virtue of the every good faith agreements that were made this morning, we have decided to withdraw our strengthening amendments in exchange for those, for the withdrawal of those amendments which would have weakened this legislation.

We think it is now in good shape for final passage.

Mr. SWIFT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would simply like to note that what has just gone on here is legislation as it should be conducted; people of legitimately differing views, with legitimacy to either side's particular point of view, working things out civilly so that we can come up with a compromise that pleases no one ultimately, but which everybody can live with. It happens more frequently than the body ever gets credit for, but I think it is important to note that the very lack of fire and flamboyant rhetoric and what have you should not obscure the fact that what has transpired here today is the amicable resolving of intensely important issues to portions of this country, and it is at times like this that I am most proud to be a Member of this body.

Mr. PAXON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the legislation we are considering today, H.R. 4779, the State and Local Government Interstate Waste Control Act, attempts to deal with the problem of the interstate shipment of solid waste by authorizing State and local governments to restrict or prohibit municipal solid waste from entering their State.

This has been a contentious issue for a number of years and past attempts to solve it have failed. Unfortunately, I believe that this bill before us is on the same road to failure.

As currently written, H.R. 4779 places a very great burden on New York State. The time tables and ratchet provision in subsection (c) are unreasonable and will not allow New York the 3 to 7 years needed to fully develop in-State disposal capacity.

In addition, the bill language does not sufficiently protect waste disposal contracts and may still allow the abrogation of some contracts.

To help improve H.R. 4779, Mr. SCHUMER and I offered two amendments in Rules Committee. However, only one of

the amendments, to prohibit discriminatory use of the ratchet, will be offered today.

This amendment would make it clear that a beleaguered State may not impose an import ratchet in a discriminatory manner. Either all imported waste would be subjected to the ratchet or no waste would be so affected. It is only fair that a State may not pick and choose which waste to restrict based solely on its State of origin.

I understand this amendment will be offered en bloc with an amendment by Mr. MANTON clarifying the definition of affected local government and I would urge all of my colleagues to support this very, very modest en bloc amendment.

In conclusion, however, H.R. 4779 remains a politically motivated bill designed to obstruct interstate commerce and punish those States who need to export solid waste until sufficient in-State waste disposal capacity is created.

I intend to oppose this legislation today and I would urge all Members who support free and open commerce and who support the environmentally sound management of solid waste to vote "no" on final passage.

Mr. HUGHES. Mr. Chairman, I had intended to offer an amendment on behalf of myself and my colleague from New Jersey, Mr. FRANKS.

Mr. Chairman, as a result of an understanding that has been agreed to by the State of New Jersey and the managers of the bill, I will not offer this amendment. But first I would like to speak about the management of our Nation's solid waste—an issue that is critically important to the State of New Jersey.

New Jersey is currently a net exporter of solid waste. In part, this is because our State is geographically small, but at the same time heavily populated and urbanized. However, in large measure, we are an exporter because we have long been forced to accept waste from other States which has filled our disposal sites. In 1972, in Philadelphia versus New Jersey my State lost a case in which it tried to establish its right to control the importation of waste that was quickly filling our disposal space. So, we understand and are committed to the principle that communities should not be forced to take unwanted waste from other communities in perpetuity.

New Jersey has been a leader in efforts to achieve self-sufficiency with respect to solid waste. In fact, our State is committed to achieving self-sufficiency by the year 2000. Since 1989, there has been a steady reduction in solid waste exports from New Jersey.

Unfortunately, H.R. 4779 contains a number of provisions that could seriously damage New Jersey's attempts to attain self-sufficiency. Among other things the bill sets a new definition for municipal solid waste which includes construction and demolition debris or C&D. This, to my knowledge, is the first time that C&D has been included in the definition of municipal solid waste. In fact, EPA treats C&D as a category separate and distinct from municipal solid waste. Local governments have

traditionally assumed responsibility for managing municipal solid waste, while C&D has often been handled privately—hailed away from specific, temporary sites by private companies hired to handle waste from those sites.

The amendment that Mr. FRANKS and I had intended to offer would have remedied at least this part of the bill by striking construction and demolition debris from the definition of municipal solid waste.

By including C&D in the definition of municipal solid waste, H.R. 4779 will severely impact New Jersey's current waste management efforts. The State has gone to great lengths to reduce its waste exports and has had some of its best recycling successes in the area of C&D waste. For example, we are currently recycling some 91 percent of waste concrete, asphalt, and masonry, and about 99 percent of heavy iron wastes.

While the State is developing plans to reduce its C&D exports even further, our plans could be severely disrupted if we are suddenly forced to absorb this new waste category. It could prevent us from achieving the self-sufficiency we desire by the year 2000.

While I am pleased that my colleagues have reached some agreement with the managers on one outstanding issue pertaining to contracts, I am not at all satisfied with the content of this legislation. I certainly hope that we can correct many of this bill's problems in conference with the Senate. However, the severe impact that this legislation—in its current form—could have on my State and its efforts to reduce and recycle waste cannot be underestimated. Therefore, I intend to vote against this bill. I hope that my colleagues will be mindful of New Jersey's plight and join with our delegation to defeat this bill.

The CHAIRMAN pro tempore. If there are no further amendments, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose, and the Speaker pro tempore [Mr. DEFazio] having assumed the chair, Mr. SAWYER, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4779) to amend the Solid Waste Disposal Act to authorize local governments and Governors to restrict receipt of out-of-State municipal solid waste, and for other purposes, pursuant to House Resolution 551, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

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

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BOUCHER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 368, nays 55, not voting 11, as follows:

(Roll No. 443)

YEAS—368

Abercrombie	Clyburn	Gekas
Allard	Coble	Gephardt
Andrews (ME)	Collins (GA)	Geren
Andrews (NJ)	Collins (IL)	Gibbons
Andrews (TX)	Collins (MI)	Gilchrest
Applegate	Combest	Gillmor
Archer	Condit	Gingrich
Bacchus (FL)	Conyers	Glickman
Bacchus (AL)	Cooper	Gonzalez
Baesler	Coppersmith	Goodlatte
Baker (LA)	Costello	Goodling
Ballenger	Cox	Gordon
Barca	Coyne	Goss
Barcia	Cramer	Grams
Barlow	Crapo	Grandy
Barrett (NE)	Cunningham	Green
Barrett (WI)	Danner	Greenwood
Bartlett	Darden	Gunderson
Barton	de la Garza	Gutierrez
Bateman	Deal	Hall (OH)
Becerra	DeFazio	Hall (TX)
Bellenson	DeLauro	Hamburg
Bentley	DeLay	Hamilton
Bereuter	Dellums	Hancock
Berman	Derrick	Hansen
Bevill	Deutsch	Harman
Bilbray	Diaz-Balart	Hastings
Bilirakis	Dickey	Hayes
Bishop	Dicks	Hefley
Blackwell	Dingell	Hefner
Bliley	Dixon	Heger
Blute	Dooley	Hilliard
Boehner	Doolittle	Hoagland
Bonilla	Dornan	Hobson
Bonior	Dreier	Hoekstra
Borski	Duncan	Hoke
Boucher	Dunn	Holden
Brewster	Durbin	Horn
Brooks	Edwards (CA)	Hoyer
Browder	Edwards (TX)	Huffington
Brown (CA)	Ehlers	Hunter
Brown (FL)	Emerson	Hutchinson
Brown (OH)	English	Hutto
Bryant	Eshoo	Inglis
Bunning	Evans	Inslee
Burton	Everett	Istook
Buyer	Farr	Jacobs
Byrne	Fazio	Jefferson
Callahan	Fields (LA)	Johnson (CT)
Calvert	Fields (TX)	Johnson (GA)
Camp	Filner	Johnson (SD)
Canady	Fingerhut	Johnson, E. B.
Cantwell	Foglietta	Johnson, Sam
Cardin	Ford (MI)	Johnston
Carr	Ford (TN)	Kanjorski
Castle	Fowler	Kaptur
Chapman	Franks (CT)	Kasich
Clay	Frost	Kennedy
Clayton	Furse	Kennelly
Clement	Galleghy	Kildee
Clinger	Gelderson	Kim

Kingston	Murphy	Shepherd
Kiecicka	Murtha	Shuster
Klink	Myers	Sisisky
Klug	Neal (MA)	Skaggs
Knollenberg	Neal (NC)	Skeen
Kolbe	Nussle	Skelton
Kopetski	Oberstar	Smith (IA)
Kreidler	Obey	Smith (MI)
Kyl	Oliver	Smith (OR)
Lambert	Ortiz	Smith (TX)
Lancaster	Orton	Snowe
Lantos	Oxley	Spence
LaRocco	Packard	Spratt
Laughlin	Parker	Stark
Leach	Pastor	Stearns
Lehman	Payne (VA)	Stenholm
Levin	Penny	Stokes
Lewis (CA)	Peterson (FL)	Strickland
Lewis (GA)	Peterson (MN)	Studds
Lewis (KY)	Petri	Stump
Lightfoot	Pickett	Stupak
Linder	Pickle	Swett
Lipinski	Pombo	Swift
Livingston	Pomeroy	Synar
Long	Porter	Talent
Lucas	Portman	Tanner
Machtley	Poshard	Tauzin
Mann	Price (NC)	Taylor (MS)
Margolies-	Pryce (OH)	Taylor (NC)
Mezvinsky	Quillen	Tejeda
Markey	Rahall	Thomas (CA)
Martinez	Ramstad	Thomas (WY)
Matsui	Ravenel	Thompson
Mazzoli	Reed	Thornton
McCandless	Regula	Thurman
McCloskey	Richardson	Torkildsen
McCollum	Ridge	Torres
McCrery	Roberts	Trafficant
McCurdy	Roemer	Tucker
McDade	Rogers	Unsold
Gillmor	Rohrabacher	Upton
McHale	Ros-Lehtinen	Valentine
McInnis	Rose	Vento
McKeon	Roth	Visclosky
McKinney	Rowland	Volkmer
Meehan	Roybal-Allard	Vucanovich
Meek	Rush	Walker
Meehan	Sabo	Waters
Meyers	Sanders	Watt
Mfume	Sangmeister	Waxman
Mica	Santorum	Weldon
Michel	Sarpallus	Whitten
Miller (CA)	Sawyer	Williams
Miller (FL)	Schaefer	Wilson
Mineta	Schenk	Wise
Minge	Schiff	Wolf
Mink	Schroeder	Woolsey
Moakley	Scott	Wyden
Mollohan	Sensenbrenner	Wynn
Montgomery	Sharp	Yates
Moorhead	Shaw	Young (AK)
Moran	Shays	Young (FL)
Morella		

NAYS—55

Ackerman	Hyde	Rangel
Armey	King	Reynolds
Baker (CA)	Klein	Rostenkowski
Boehert	LaFalce	Roukema
Coleman	Lazio	Royce
Crane	Levy	Saxton
Engel	Lowey	Schumer
Ewing	Maloney	Serrano
Fawell	Manton	Slaughter
Fish	Manzullo	Smith (NJ)
Flake	McHugh	Solomon
Frank (MA)	Menendez	Torricelli
Franks (NJ)	Molinari	Towns
Gilman	Nadler	Velazquez
Hastert	Owens	Walsh
Hinchee	Pallone	Zeliff
Hochbrueckner	Paxon	Zimmer
Houghton	Payne (NJ)	
Hughes	Quinn	

NOT VOTING—11

Gallo	McMillan	Sundquist
Inhofe	McNulty	Washington
Lewis (FL)	Pelosi	Wheat
Lloyd	Slattery	

□ 1338

Messrs. EWING, OWENS, HYDE, SERRANO, and ROYCE changed their vote from "yea" to "nay."

So the bill was passed.  
The result of the vote was announced as above recorded.  
A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. LEWIS of Florida. Mr. Speaker, I was unavoidably detained and unable to vote on H.R. 4779, the State and Local Government Interstate Waste Control Amendments of 1994—rollcall vote No. 443. Had I been present, I would have voted "aye." In attempting to cope with our country's waste products, I support providing State governments the authority to control the flow of solid waste crossing their borders.

PERSONAL EXPLANATION

Mrs. COLLINS of Illinois. Mr. Speaker, on the final vote for passage of H.R. 4779, the State and Local Government Waste Control Act, I was misrecorded as having voted "aye" for the bill. I wish to be recorded as voting against the bill.

□ 1340

GENERAL LEAVE

Mr. SWIFT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4779, the bill just passed.

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

There was no objection.

NATIONAL PARK SYSTEM REFORM ACT OF 1994

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 4476, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill H.R. 4476, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 421, nays 0, not voting 13, as follows:

[Roll No. 444]

YEAS—421

Abercrombie	Bacchus (FL)	Barrett (NE)
Ackerman	Bachus (AL)	Barrett (WI)
Allard	Baessler	Bartlett
Andrews (ME)	Baker (CA)	Barton
Andrews (NJ)	Baker (LA)	Bateman
Andrews (TX)	Ballenger	Becerra
Applegate	Barca	Bellenson
Archer	Barcia	Bentley
Army	Barlow	Bereuter

Berman	Flake	Lehman
Bevill	Foglietta	Levin
Bilbray	Ford (MI)	Levy
Bilirakis	Ford (TN)	Lewis (CA)
Bishop	Fowler	Lewis (FL)
Blackwell	Frank (MA)	Lewis (GA)
Billey	Franks (CT)	Lewis (KY)
Blute	Franks (NJ)	Lightfoot
Boehkert	Frost	Linder
Boehner	Furse	Lipinski
Bonilla	Gallely	Livingston
Bonior	Gejdenson	Long
Borski	Gekas	Lowe
Boucher	Gephardt	Lucas
Brewster	Geren	Machtley
Brooks	Gibbons	Maloney
Browder	Gilchrest	Mann
Brown (CA)	Gillmor	Manton
Brown (FL)	Gilman	Manzullo
Brown (OH)	Gingrich	Margolles
Bryant	Glickman	Mezvinsky
Bunning	Gonzalez	Martinez
Burton	Gutierrez	Matsui
Buyer	Goodlatte	Mazzoli
Byrne	Goodling	McCandless
Callahan	Gordon	McCloskey
Calvert	Goss	McCollum
Camp	Grams	McCrery
Canady	Grandy	McCurdy
Cantwell	Green	McDade
Cardin	Greenwood	McDermott
Carr	Gunderson	McHale
Castle	Gutierrez	McHugh
Chapman	Hall (OH)	McInnis
Clay	Hall (TX)	McKeon
Clayton	Hamburg	McKinney
Clement	Hamilton	Meehan
Clinger	Hancock	Meek
Clyburn	Hansen	Menendez
Coble	Harman	Meyers
Coleman	Hastert	Mfume
Collins (GA)	Hastings	Mica
Collins (IL)	Hefley	Michel
Collins (MI)	Hefner	Miller (CA)
Combest	Herger	Miller (FL)
Condit	Hilliard	Mineta
Conyers	Hinchee	Minge
Cooper	Hoagland	Mink
Coppersmith	Hobson	Moakley
Costello	Hochbrueckner	Mollinari
Cox	Hoekstra	Mollohan
Coyne	Hoke	Montgomery
Cramer	Holden	Moorhead
Crane	Horn	Moran
Crapo	Hoyer	Morella
Cunningham	Huffington	Murphy
Danner	Hughes	Murtha
Darden	Hunter	Myers
de la Garza	Hutchinson	Nadler
Deal	Hutto	Neal (MA)
DeFazio	Hyde	Neal (NC)
DeLauro	Inglis	Nussle
DeLay	Inslee	Oberstar
Dellums	Istook	Obey
Derrick	Jacobs	Oliver
Deutsch	Jefferson	Ortiz
Diaz-Balart	Johnson (GA)	Orton
Dickey	Johnson (SD)	Owens
Dicks	Johnson, E. B.	Oxley
Dingell	Johnson, Sam	Packard
Dixon	Johnston	Pallone
Dooley	Kanjorski	Parker
Doolittle	Kaptur	Pastor
Dornan	Kasich	Paxon
Dreier	Kennedy	Payne (NJ)
Duncan	Kennelly	Payne (VA)
Dunn	Kildee	Pelosi
Durbin	Kim	Penny
Edwards (CA)	King	Peterson (FL)
Edwards (TX)	Kingston	Peterson (MN)
Ehlers	Kleczka	Petri
Emerson	Klein	Pickett
Engel	Klink	Pickle
English	Klug	Pombo
Eshoo	Knollenberg	Pomeroy
Evans	Koibe	Porter
Everett	Kopetski	Portman
Ewing	Kreidler	Poshard
Farr	Kyl	Price (NC)
Fawell	LaFalce	Pryce (OH)
Fazio	Lambert	Quillen
Fields (LA)	Lancaster	Quinn
Fields (TX)	Lantos	Rahall
Filner	LaRocco	Ramstad
Fingerhut	Laughlin	Rangel
Fish	Lazio	Ravenel
	Leach	

Reed	Shepherd	Thornton
Regula	Shuster	Thurman
Reynolds	Sisisky	Torkildsen
Richardson	Skaggs	Torres
Ridge	Skeen	Torricelli
Roberts	Skelton	Towns
Roemer	Slaughter	Traficant
Rogers	Smith (IA)	Tucker
Rohrabacher	Smith (MI)	Unsoeld
Ros-Lehtinen	Smith (NJ)	Upton
Rose	Smith (OR)	Valentine
Rostenkowski	Smith (TX)	Velazquez
Roth	Snowe	Vento
Roukema	Solomon	Visclosky
Rowland	Spence	Volkmer
Roybal-Allard	Spratt	Vucanovich
Royce	Stark	Walker
Rush	Stearns	Walsh
Sabo	Stenholm	Waters
Sanders	Stokes	Watt
Sangmeister	Strickland	Waxman
Santorum	Studds	Weldon
Sarpalius	Stump	Whitten
Sawyer	Stupak	Williams
Saxton	Swett	Wilson
Schaefer	Swift	Wise
Schenk	Synar	Wolf
Schiff	Talent	Woodsey
Schroeder	Tanner	Wyden
Schumer	Tauzin	Wynn
Scott	Taylor (MS)	Yates
Sensenbrenner	Taylor (NC)	Young (AK)
Serrano	Tejeda	Young (FL)
Sharp	Thomas (CA)	Zeliff
Shaw	Thomas (WY)	Zimmer
Shays	Thompson	

NOT VOTING—13

Gallo	Lloyd	Sundquist
Hayes	Markey	Washington
Houghton	McMillan	Wheat
Inhofe	McNulty	
Johnson (CT)	Slattery	

□ 1356

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 140

Mr. SHAYS. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 140.

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

There is no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3222

Mr. BARCIA of Michigan. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 3222.

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

There is no objection.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 4650, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1995

Mr. DERRICK, from the Committee on Rules, submitted a privileged report

(Rept. No. 103-759) on the resolution (H. Res. 554) waiving points of order against the conference report to accompany the bill (H.R. 4650) making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes, which was referred to the House Calendar and ordered to be printed.

#### FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4539) "An Act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1995, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4602) "An Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1995, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4606) "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."

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate numbered 18, 26, 33, 35, 38, 51, 53, 54, 56, 63, 69, 70, 71, 73, 74, 81, 83, 86, 87, 88, 90, 93, 95, 96, 97, 98, 99, 100, 102, 103, 104, 107, 130, 135, 138, 139, 144, 153, 154, 155, 156, and 157, to the above-entitled bill.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate numbered 148, to the above-entitled bill.

#### DEPARTMENT OF AGRICULTURE REORGANIZATION ACT OF 1994

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 554 and ask for its immediate consideration.

The clerk read the resolution, as follows:

H. RES. 554

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pur-

suant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 3171) to authorize the Secretary of Agriculture to reorganize the Department of Agriculture, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and the amendments made in order by this resolution and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Agriculture now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

□ 1400

The SPEAKER pro tempore (Mr. PENNY). The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 544 is an open rule providing 1 hour of general debate, equally divided and controlled by the chairman and ranking minority member of the Agriculture Committee.

All points of order are waived against consideration of the bill. The rule makes in order the Agriculture Committee amendment in the nature of a substitute now printed in the bill as an original bill for the purpose of amendment.

The substitute shall be considered as read. All points of order are waived against the substitute. Finally, the rule provides one motion to recommit with or without instructions.

H.R. 3171 responds to the administration's reinventing Government proposal introduced last September. Among its provisions, the plan recommends reorganizing the streamlining the operations of the Department of Agriculture. This legislation clearly answers the demands for a Government that works better and costs less.

The Department of Agriculture Reorganization Act requires the adminis-

tration to meet the goals for job reduction and cost savings set forth in the reinventing Government initiative.

H.R. 3171 requires the elimination of 7,500 full-time positions by the end of fiscal year 1999.

The measure mandates that the Agriculture Department merge, consolidate, or close a number of its farm program field offices.

The consolidation plan will create a new system of about 2,500 farm service centers. These service centers will provide one-stop shopping for farmers for such now-separated farm services as crop support payments, rural housing loans, and crop insurance.

The bill projects savings of \$2.5 billion over the 5 years following its enactment.

Mr. Speaker, I don't need to remind my colleagues that there is a general perception that we know how to create agencies and programs, but we don't know how to eliminate them, even when they are obsolete.

Industry replaced farming as America's principal business over 100 years ago. However, the Agriculture Department still operates more than 12,000 field service offices.

That is an average of nearly four offices for every county in the Nation—that is rural, urban, and suburban communities.

H.R. 3171 will help us focus the debate on performance—how the Agriculture Department works and how it does its business.

We have the opportunity to make the Agriculture Department more cost effective and efficient. That will make Government work better for all of us.

Mr. Speaker, House Resolution 544 will allow this body to fully debate the Department of Agriculture Reorganization Act. I urge my colleagues to support the rule and H.R. 3171.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from South Carolina [Mr. DERRICK] for being so gracious with his time. And, Mr. Speaker, I might just also take a moment to point out, as I speak about the gracious gentleman from Edgefield, SC, who has been a Member of this body for 20 years: He has made a decision not to seek reelection. He is going to retire, and, as my colleagues know, he and I have had some pretty heated arguments over the last couple of decades, but I say, when you think about the phrase "southern gentleman," Mr. BUTLER DERRICK does epitomize those words "southern gentleman." So, in spite of all the perhaps misunderstandings and arguments, Mr. Speaker, he is truly a southern gentleman, and we are going to miss him.

Mr. Speaker, at this point I insert in the RECORD the following information:

ROLLCALL VOTES IN THE RULES COMMITTEE ON H.R. 3171, DEPARTMENT OF AGRICULTURE REORGANIZATION ACT

1. Derrick Motion to Report Rule.—One-hour, open rule, waiving all points of order against bill and substitute. Adopted: 5-2. Yeas: Moakley, Derrick, Frost, Slaughter, and Solomon. Nays: Dreier and Goss. Not Voting: Beilenson, Bonior, Hall, Wheat, Gordon, and Quillen.

OPEN VERSUS RESTRICTIVE RULES 95TH-103D CONG.

Congress (years)	Total rules granted <sup>1</sup>	Open rules		Restrictive rules	
		Number	Percent <sup>2</sup>	Number	Percent <sup>3</sup>
95th (1977-78)	211	179	85	32	15
96th (1979-80)	214	161	75	53	25
97th (1981-82)	120	90	75	30	25
98th (1983-84)	155	105	68	50	32
99th (1985-86)	115	65	57	50	43
100th (1987-88)	123	66	54	57	46
101st (1989-90)	104	47	45	57	55
102d (1991-92)	109	37	34	72	66
103d (1993-94)	99	31	31	68	69

<sup>1</sup>Total rules counted are all order of business resolutions reported from the Rules Committee which provide for the initial consideration of legislation, except rules on appropriations bills which only waive points of order. Original jurisdiction measures reported as privileged are also not counted.

<sup>2</sup>Open rules are those which permit any Member to offer any germane amendment to a measure so long as it is otherwise in compliance with the rules of the House. The parenthetical percentages are open rules as a percent of total rules granted.

<sup>3</sup>Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules, as well as completely closed rule, and rules providing for consideration in the House as opposed to the Committee of the Whole. The parenthetical percentages are restrictive rules as a percent of total rules granted.

Sources: "Rules Committee Calendars & Surveys of Activities," 95th-102d Cong.; "Notices of Action Taken," Committee on Rules, 103d Cong., through Sept. 27, 1994.

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 58, Feb. 2, 1993	MC	H.R. 1: Family and medical leave	30 (D-0; R-25)	3 (D-0; R-3)	PQ: 246-176. A: 259-164. (Feb. 3, 1993).
H. Res. 59, Feb. 3, 1993	MC	H.R. 2: National Voter Registration Act	19 (D-1; R-18)	1 (D-0; R-1)	PQ: 248-171. A: 249-170. (Feb. 4, 1993).
H. Res. 103, Feb. 23, 1993	C	H.R. 920: Unemployment compensation	7 (D-2; R-5)	0 (D-0; R-0)	PQ: 243-172. A: 237-178. (Feb. 24, 1993).
H. Res. 106, Mar. 2, 1993	MC	H.R. 20: Hatch Act amendments	9 (D-1; R-8)	3 (D-0; R-3)	PQ: 248-166. A: 249-163. (Mar. 3, 1993).
H. Res. 119, Mar. 9, 1993	MC	H.R. 4: NIH Revitalization Act of 1993	13 (D-4; R-9)	8 (D-3; R-5)	PQ: 247-170. A: 248-170. (Mar. 10, 1993).
H. Res. 132, Mar. 17, 1993	MC	H.R. 1335: Emergency supplemental Appropriations	37 (D-8; R-29)	1 (not submitted) (D-1; R-0)	A: 240-185. (Mar. 18, 1993).
H. Res. 133, Mar. 17, 1993	MC	H. Con. Res. 64: Budget resolution	14 (D-2; R-12)	4 (1-D not submitted) (D-2; R-2)	PQ: 250-172. A: 251-172. (Mar. 18, 1993).
H. Res. 138, Mar. 23, 1993	MC	H.R. 670: Family planning amendments	20 (D-8; R-12)	9 (D-4; R-5)	PQ: 252-164. A: 247-169. (Mar. 24, 1993).
H. Res. 147, Mar. 31, 1993	C	H.R. 1430: Increase Public debt limit	6 (D-1; R-5)	0 (D-0; R-0)	PQ: 244-168. A: 242-170. (Apr. 1, 1993).
H. Res. 149, Apr. 1, 1993	MC	H.R. 1578: Expedited Rescission Act of 1993	8 (D-1; R-7)	3 (D-1; R-2)	A: 212-208. (Apr. 28, 1993).
H. Res. 164, May 4, 1993	O	H.R. 1578: Expedited Rescission Act of 1993	NA	NA	A: Voice Vote. (May 5, 1993).
H. Res. 171, May 18, 1993	O	H.R. 873: Gallatin Range Act of 1993	NA	NA	A: Voice Vote. (May 20, 1993).
H. Res. 172, May 18, 1993	O	H.R. 1159: Passenger Vessel Safety Act	NA	NA	A: 308-0. (May 24, 1993).
H. Res. 173, May 18, 1993	MC	S.J. Res. 45: United States forces in Somalia	6 (D-1; R-5)	5 (D-1; R-5)	A: Voice Vote. (May 20, 1993).
H. Res. 183, May 25, 1993	O	H.R. 2244: 2d supplemental appropriations	NA	NA	A: 251-174. (May 26, 1993).
H. Res. 186, May 27, 1993	MC	H.R. 2264: Omnibus budget reconciliation	51 (D-19; R-32)	8 (D-7; R-1)	PQ: 252-178. A: 236-194. (May 27, 1993).
H. Res. 192, June 9, 1993	MC	H.R. 2348: Legislative branch appropriations	50 (D-8; R-44)	6 (D-3; R-3)	PQ: 240-177. A: 226-185. (June 10, 1993).
H. Res. 193, June 10, 1993	O	H.R. 2200: NASA authorization	NA	NA	A: Voice Vote. (June 14, 1993).
H. Res. 195, June 14, 1993	MC	H.R. 5: Striker replacement	7 (D-4; R-3)	2 (D-1; R-1)	A: 244-176. (June 15, 1993).
H. Res. 197, June 15, 1993	MO	H.R. 2333: State Department, H.R. 2404: Foreign aid	53 (D-20; R-33)	27 (D-12; R-15)	A: 294-129. (June 16, 1993).
H. Res. 199, June 16, 1993	C	H.R. 1876: Ext. of "Fast Track"	NA	NA	A: Voice Vote. (June 22, 1993).
H. Res. 200, June 16, 1993	MC	H.R. 2295: Foreign operations appropriations	33 (D-11; R-22)	5 (D-1; R-4)	A: 263-160. (June 17, 1993).
H. Res. 201, June 17, 1993	O	H.R. 2403: Treasury-postal appropriations	NA	NA	A: Voice Vote. (June 17, 1993).
H. Res. 203, June 22, 1993	MO	H.R. 2445: Energy and Water appropriations	NA	NA	A: Voice Vote. (June 23, 1993).
H. Res. 206, June 23, 1993	O	H.R. 2150: Coast Guard authorization	NA	NA	A: 401-0. (July 30, 1993).
H. Res. 217, July 14, 1993	MC	H.R. 2010: National Service Trust Act	NA	NA	A: 261-164. (July 21, 1993).
H. Res. 220, July 21, 1993	MO	H.R. 2667: Disaster assistance supplemental	14 (D-8; R-6)	2 (D-2; R-0)	PQ: 245-178. F: 205-216. (July 22, 1993).
H. Res. 226, July 23, 1993	MC	H.R. 2667: Disaster assistance supplemental	15 (D-8; R-7)	2 (D-2; R-0)	A: 224-205. (July 27, 1993).
H. Res. 229, July 28, 1993	MO	H.R. 2330: Intelligence Authority Act, fiscal year 1994	NA	NA	A: Voice Vote. (Aug. 3, 1993).
H. Res. 230, July 28, 1993	O	H.R. 1964: Maritime Administration authority	NA	NA	A: Voice Vote. (July 29, 1993).
H. Res. 246, Aug. 6, 1993	MO	H.R. 2401: National Defense authority	149 (D-109; R-40)	NA	A: 246-172. (Sept. 8, 1993).
H. Res. 248, Sept. 9, 1993	MO	H.R. 2401: National defense authorization	NA	NA	PQ: 237-169. A: 234-169. (Sept. 13, 1993).
H. Res. 250, Sept. 13, 1993	MC	H.R. 1340: RTC Completion Act	12 (D-3; R-9)	1 (D-1; R-0)	A: 213-191-1. (Sept. 14, 1993).
H. Res. 254, Sept. 22, 1993	MO	H.R. 2401: National Defense authorization	NA	NA	A: 241-182. (Sept. 28, 1993).
H. Res. 262, Sept. 28, 1993	O	H.R. 1845: National Biological Survey Act	NA	91 (D-67; R-24)	A: 238-188. (10/06/93).
H. Res. 264, Sept. 28, 1993	MC	H.R. 2351: Arts, humanities, museums	7 (D-0; R-7)	3 (D-0; R-3)	PQ: 240-185. A: 225-195. (Oct. 14, 1993).
H. Res. 265, Sept. 29, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D-1; R-2)	2 (D-1; R-1)	A: 239-150. (Oct. 15, 1993).
H. Res. 269, Oct. 6, 1993	MO	H.R. 2739: Aviation infrastructure investment	NA	NA	A: Voice Vote. (Oct. 7, 1993).
H. Res. 273, Oct. 12, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D-1; R-2)	2 (D-1; R-1)	PQ: 235-187. F: 149-254. (Oct. 14, 1993).
H. Res. 274, Oct. 12, 1993	MC	H.R. 1804: Goals 2000 Educate America Act	15 (D-7; R-7; I-1)	10 (D-7; R-3)	A: Voice Vote. (Oct. 13, 1993).
H. Res. 282, Oct. 20, 1993	C	H.J. Res. 281: Continuing appropriations through Oct. 28, 1993	NA	NA	A: Voice Vote. (Oct. 28, 1993).
H. Res. 286, Oct. 27, 1993	O	H.R. 334: Lumber Recognition Act	1 (D-0; R-0)	0	A: 252-170. (Oct. 28, 1993).
H. Res. 287, Oct. 27, 1993	C	H.J. Res. 283: Continuing appropriations resolution	NA	NA	A: Voice Vote. (Nov. 3, 1993).
H. Res. 289, Oct. 28, 1993	O	H.R. 2151: Maritime Security Act of 1993	NA	NA	A: 390-8. (Nov. 8, 1993).
H. Res. 293, Nov. 4, 1993	MC	H. Con. Res. 170: Troop withdrawal Somalia	NA	NA	A: Voice Vote. (Nov. 9, 1993).
H. Res. 299, Nov. 8, 1993	MO	H.R. 1036: Employee Retirement Act-1993	2 (D-1; R-1)	NA	A: 238-182. (Nov. 10, 1993).
H. Res. 302, Nov. 9, 1993	MC	H.R. 1025: Brady handgun bill	17 (D-6; R-11)	4 (D-1; R-3)	A: Voice Vote. (Nov. 16, 1993).
H. Res. 303, Nov. 9, 1993	O	H.R. 322: Mineral exploration	NA	NA	NA
H. Res. 304, Nov. 9, 1993	C	H.J. Res. 288: Further CR, FY 1994	NA	NA	NA
H. Res. 312, Nov. 17, 1993	MC	H.R. 3425: EPA Cabinet Status	27 (D-8; R-19)	9 (D-1; R-8)	F: 191-227. (Feb. 2, 1994).
H. Res. 313, Nov. 17, 1993	MC	H.R. 796: Freedom Access to Clinics	15 (D-9; R-6)	4 (D-1; R-3)	A: 233-192. (Nov. 18, 1993).
H. Res. 314, Nov. 17, 1993	MC	H.R. 3351: Alt Methods Young Offenders	21 (D-7; R-14)	6 (D-3; R-3)	A: 238-179. (Nov. 19, 1993).
H. Res. 316, Nov. 19, 1993	C	H.R. 51: D.C. statehood bill	1 (D-1; R-0)	NA	A: 252-172. (Nov. 20, 1993).
H. Res. 319, Nov. 20, 1993	MC	H.R. 3: Campaign Finance Reform	35 (D-6; R-29)	1 (D-0; R-1)	A: 220-207. (Nov. 21, 1993).
H. Res. 320, Nov. 20, 1993	MC	H.R. 3400: Reinventing Government	34 (D-15; R-19)	3 (D-3; R-0)	A: 247-183. (Nov. 22, 1993).
H. Res. 336, Feb. 2, 1994	MC	H.R. 3759: Emergency Supplemental Appropriations	14 (D-8; R-5; I-1)	5 (D-3; R-2)	PQ: 244-168. A: 342-65. (Feb. 3, 1994).
H. Res. 352, Feb. 8, 1994	MC	H.R. 811: Independent Counsel Act	27 (D-8; R-19)	10 (D-4; R-6)	PQ: 249-174. A: 242-174. (Feb. 9, 1994).
H. Res. 357, Feb. 9, 1994	MC	H.R. 3345: Federal Workforce Restructuring	3 (D-2; R-1)	2 (D-2; R-0)	A: VV (Feb. 10, 1994).
H. Res. 366, Feb. 23, 1994	MC	H.R. 6: Improving America's Schools	NA	NA	A: VV (Feb. 24, 1994).
H. Res. 384, Mar. 9, 1994	MO	H. Con. Res. 218: Budget Resolution FY 1995-99	14 (D-5; R-9)	5 (D-3; R-2)	A: 245-171. (Mar. 10, 1994).
H. Res. 401, Apr. 12, 1994	MO	H.R. 4092: Violent Crime Control	180 (D-98; R-82)	68 (D-47; R-21)	A: 244-176. (Apr. 13, 1994).
H. Res. 410, Apr. 21, 1994	MO	H.R. 3221: Iraqi Claims Act	NA	NA	A: Voice Vote. (Apr. 28, 1994).
H. Res. 414, Apr. 28, 1994	O	H.R. 3254: NSF Auth. Act	NA	NA	A: Voice Vote. (May 3, 1994).
H. Res. 416, May 4, 1994	C	H.R. 4296: Assault Weapons Ban Act	7 (D-5; R-2)	0 (D-0; R-0)	A: 220-209. (May 5, 1994).
H. Res. 420, May 5, 1994	O	H.R. 2442: EDA Reauthorization	NA	NA	A: Voice Vote. (May 10, 1994).
H. Res. 422, May 11, 1994	MO	H.R. 518: California Desert Protection	NA	NA	PQ: 245-172. A: 248-165. (May 17, 1994).
H. Res. 423, May 11, 1994	O	H.R. 2473: Montana Wilderness Act	NA	NA	A: Voice Vote. (May 12, 1994).
H. Res. 428, May 17, 1994	MO	H.R. 2108: Black Lung Benefits Act	4 (D-1; R-3)	NA	A: VV (May 19, 1994).
H. Res. 429, May 17, 1994	MO	H.R. 4301: Defense Auth., FY 1995	173 (D-115; R-58)	NA	A: 369-49. (May 18, 1994).
H. Res. 431, May 20, 1994	MO	H.R. 4301: Defense Auth., FY 1995	NA	100 (D-80; R-20)	A: Voice Vote. (May 23, 1994).
H. Res. 440, May 24, 1994	MC	H.R. 4385: Natl Hiway System Designation	16 (D-10; R-6)	5 (D-5; R-0)	A: Voice Vote. (May 25, 1994).
H. Res. 443, May 25, 1994	MC	H.R. 4426: For Ops. Approps, FY 1995	39 (D-11; R-28)	8 (D-3; R-5)	PQ: 233-191. A: 244-181. (May 25, 1994).
H. Res. 444, May 25, 1994	MC	H.R. 4454: Leg Branch Approp, FY 1995	43 (D-10; R-33)	12 (D-8; R-4)	A: 249-177. (May 26, 1994).
H. Res. 447, June 8, 1994	O	H.R. 4539: Treasury/Postal Approps 1995	NA	NA	A: 236-177. (June 9, 1994).
H. Res. 467, June 28, 1994	MC	H.R. 4600: Expedited Rescissions Act	NA	NA	PQ: 240-185. A: Voice Vote. (July 14, 1994).
H. Res. 468, June 28, 1994	MO	H.R. 4299: Intelligence Auth., FY 1995	NA	NA	A: Voice Vote. (July 19, 1994).
H. Res. 474, July 12, 1994	MO	H.R. 3937: Export Admin. Act of 1994	NA	NA	A: Voice Vote. (July 14, 1994).
H. Res. 475, July 12, 1994	O	H.R. 1188: Anti. Redlining in Ins	NA	NA	A: Voice Vote. (July 20, 1994).
H. Res. 482, July 20, 1994	O	H.R. 3838: Housing & Comm. Dev. Act	NA	NA	A: Voice Vote. (July 21, 1994).
H. Res. 483, July 20, 1994	O	H.R. 3870: Environ. Tech. Act of 1994	NA	NA	A: Voice Vote. (July 26, 1994).
H. Res. 484, July 20, 1994	MC	H.R. 4694: Budget Control Act of 1994	3 (D-2; R-1)	3 (D-2; R-1)	PQ: 245-180. A: Voice Vote. (July 21, 1994).
H. Res. 491, July 27, 1994	O	H.R. 2448: Radon Disclosure Act	NA	NA	A: Voice Vote. (July 28, 1994).
H. Res. 492, July 27, 1994	O	S. 208: NPS Concession Policy	NA	NA	A: Voice Vote. (July 28, 1994).

## OPEN VERSUS RESTRICTIVE RULES: 103D CONG.—Continued

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 494, July 28, 1994	MC	H.R. 4801: SBA Reauth & Amdmts. Act	10 (D-5; R-5)	6 (D-4; R-2)	PQ. 215-169 A; 221-161 (July 29, 1994).
H. Res. 500, Aug. 1, 1994	MO	H.R. 4003: Maritime Admin. Reauth.	N/A	N/A	A: 336-77 (Aug. 2, 1994).
H. Res. 501, Aug. 1, 1994	O	S. 1357: Little Traverse Bay Bands	N/A	N/A	A: Voice Vote (Aug. 3, 1994).
H. Res. 502, Aug. 1, 1994	O	H.R. 1066: Pokagon Band of Pottawatomi	N/A	N/A	A: Voice Vote (Aug. 3, 1994).
H. Res. 507, Aug. 4, 1994	O	H.R. 4217: Federal Crop Insurance	N/A	N/A	A: Voice Vote (Aug. 5, 1994).
H. Res. 509, Aug. 5, 1994	MC	H.R. 4906: Emergency Spending Control Act	N/A	N/A	A: Voice Vote (Aug. 9, 1994).
H. Res. 513, Aug. 5, 1994	MC	H.R. 4907: Full Budget Disclosure Act	N/A	N/A	A: Voice Vote (Aug. 17, 1994).
H. Res. 512, Aug. 9, 1994	MC	H.R. 4822: Cong. Accountability	33 (D-16; R-17)	16 (D-10; R-5)	A: 255-178 (Aug. 11, 1994).
H. Res. 514, Aug. 9, 1994	MC	H.R. 4908: Hydrogen Etc. Research Act	N/A	N/A	PQ. 247-185 A: Voice Vote (Aug. 10, 1994).
H. Res. 515, Aug. 10, 1994	O	H.R. 3433: Presidio Management	N/A	N/A	A: Voice Vote (Aug. 19, 1994).
H. Res. 516, Aug. 10, 1994	MC	H.R. 4448: Lowell Natl. Park	12 (D-2; R-10)	N/A	A: Voice Vote (Aug. 19, 1994).
H. Res. 532, Sept. 20, 1994	O	H.R. 4422: Coast Guard Authorization	N/A	N/A	
H. Res. 535, Sept. 20, 1994	O	H.R. 2866: Headwaters Forest Act	16 (D-5; R-11)	9 (D-3; R-5)	A: Voice Vote (Sept. 22, 1994).
H. Res. 536, Sept. 20, 1994	MC	H.R. 4008: NOAA Auth. Act	N/A	N/A	PQ. 245-175 A; 246-174 (Sept. 21, 1994).
H. Res. 542, Sept. 23, 1994	O	H.R. 4926: Natl. Treatment in Banking	N/A	N/A	A: Voice Vote (Sept. 26, 1994).
H. Res. 543, Sept. 23, 1994	O	H.R. 3171: Ag. Dept. Reorganization	N/A	N/A	
H. Res. 544, Sept. 23, 1994	O	H.R. 4779: Interstate Waste Control	22 (D-15; R-7)	N/A	
H. Res. 551, Sept. 27, 1994	MO	H.R. 4683: Flow Control Act	N/A	N/A	
H. Res. 552, Sept. 27, 1994	O				

Note.—Code: C-Closed; MC-Modified closed; MO-Modified open; O-Open; D-Democrat; R-Republican; PQ: Previous question; A-Adopted; F-Failed.

Mr. SOLOMON. Mr. Speaker, I have opposed the majority on the Committee on Rules as aggressively as any Member of this body when the Committee has tried to restrict the amendment process on this floor. However, Mr. Speaker, today the Committee on Rules is finally reporting one of those all-too-rare open rules, and it should be commended for that step in the right direction. I say to the gentleman, "I commend, you, sir."

Mr. Speaker, this rule also waives all points of order against consideration of the bill and the substitute. However in this case that waiver of all points of order actually covers three specific violations of House rules:

First, there are two sections in the Agriculture Committee amendment in the nature of a substitute which are not germane, because they fall in the jurisdiction of other committees.

Second, the bill provides for inter-agency transfers of unexpended balances of appropriations, and technically this is an appropriation on legislation.

Third, while the bill overall cuts positions, it does raise salary levels for certain departmental positions, and because it is theoretically possible that this spending could still take effect this fiscal year, the Parliamentarians view this as a technical violation of the Budget Act.

Before the Committee on Rules' meeting, I discussed this rule with the ranking Republican on the House Committee on Agriculture, the gentleman from Kansas [Mr. ROBERTS]. He supported an open rule to move this bill to the floor of the House, so that the House would have the opportunity to make some needed improvements in this legislation, and, Mr. Speaker, this legislation has the potential to cause some major problems in a large rural district like the one I represent. The district I represent covers most of the territory as one heads north out of New York City all the way to the border with Canada. That is about 250 miles long and covers about 10,000 square miles. If there is not an Agriculture Department office in at least every one

of those huge counties along that 250-mile stretch, Mr. Speaker, it becomes a major problem just for farmers to get into the office to transact their business.

I understand the need to combine offices for one-stop service, and the need to save as much money as possible, but it has to be done in the right way or we can do more harm than good and actually cost the Federal Treasury more money.

So, Mr. Speaker, while I do not support this bill in its present form, hopefully I will after the amending process. If it is going to be considered in this House, it should be considered under an open rule so the House will have the opportunity to improve some of the problems in the bill. Since the rule before us now is an open rule, the subjects of the rule waivers can be stricken entirely or amended. I will vote for this open rule and hope we get more of them, Mr. Speaker.

Mr. Speaker, I reserve the balance of my time.

Mr. DERRICK. Mr. Speaker, before I yield time to our next speaker I want to thank the gentleman from New York [Mr. SOLOMON] very much for his kind words, and I assure him that the feeling is mutual.

Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I was not going to speak on the rule. I am for the rule; I am for the bill. I commend the chairman of the Committee on Agriculture, the gentleman from Texas [Mr. DE LA GARZA], for the work he has done as well as the ranking member.

However, Mr. Speaker, I thought I would just take a minute to talk about the fine gentleman from South Carolina [Mr. DERRICK] who is leaving, who at times has put me through some trips. I think we are going to lose a great Member.

Mr. Speaker, my position on trade is that I feel our country is giving away the farm, and the gentleman from South Carolina is a member of the leadership that I thought could have made a difference.

□ 1410

I am saddened the gentleman is leaving. I think there are a lot of American workers that are saddened by the fact that the gentleman from South Carolina is leaving us. So I am not going to take a whole lot of time, because then the gentleman from California [Mr. FAZIO] will ask for a favor. But I mean that, Mr. Chairman. A lot of people, working people, agree with you very much, and know that we had a leader that took some of our concerns to heart.

Mr. Speaker, I yield back the balance of my time, and wish the gentleman the best.

Mr. DERRICK. Mr. Speaker, I say to the gentleman, "Thank you very much, Mr. TRAFICANT, for your kind words. I assure you the feelings are mutual."

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. SMITH]. Mr. Speaker, we all remember the movie, "Mr. Smith Goes To Washington." My colleagues know we had a SMITH that came to Washington 2 years ago, and he comes from Addison, MI, population 425.

Mr. SMITH of Michigan. Mr. Speaker, I appreciate and concur with the comments of the gentleman from Ohio [Mr. TRAFICANT]. I was hoping he would also include some comments on the importance of buying American food and fiber as we discuss this agriculture bill. The American farmer is in a predicament right now in several areas of production.

I would like to compliment the members of the Rules Committee for making this rule open, so that we can have a thorough debate. If you will, this legislation is a prelude to the important 5-year farm bill that we are going to develop next year.

The agricultural industry in this country is our largest industry. It contributes the greatest support to our balance of trade worldwide. And this total body, not only the Members from the agricultural community, but every Member of Congress, needs to consider the importance of strengthening this

very important industry. On the specific amendments that we will be talking about during general debate, I will also be offering amendments and contribute to that discussion.

Mr. SOLOMON. Mr. Speaker, I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 544 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3171.

□ 1412

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3171) to authorize the Secretary of Agriculture to reorganize the Department of Agriculture, and for other purposes, with Mrs. KENNELLY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Texas [Mr. DE LA GARZA] will be recognized for 30 minutes, and the gentleman from Kansas [Mr. ROBERTS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, let me begin by saying to Mr. SOLOMON, I appreciate his enthusiasm, and I am glad we were able to accommodate his great desire to have open rules. My only question is, Why start with us?

Otherwise, let me mention very briefly, because I know Members would like to conclude at an early hour today, that this bill has nothing to do with the programs at USDA. This bill is solely to consolidate, reorganize, and streamline. If anyone has any interest or concern in the programs, that will be dealt with next year on the farm bill.

This is also not about money, although this bill saves some money, about \$2.5 billion. But what we do in Agriculture is serve all of the people. Since it was started by President Lincoln, the guidance and the direction is to serve farmers and ranchers, to promote economic and community development in rural areas, to provide good assistance and educate the general population about proper nutrition. That is across the spectrum in the United States. To promote soil and water con-

servation, clean air, clean water, to meet other environmental goals in rural areas, to ensure the quality and safety of our food, and to carry out agriculture research, economic analysis, and educate the American public: This is the Extension Service, the research, the land grant institutions, all of those areas are covered under the mandate of the Department of Agriculture.

But this consolidation and streamlining under H.R. 3171 is done to accommodate the changing times. Let me say that in the beginning, that now, from the people's Department of President Lincoln, it is still the people's Department. But almost 60 percent of the Department of Agriculture budget is devoted to domestic nutrition programs. Only 20 percent of the budget is devoted to the farm commodity program. So the reorganizing we are dealing with here and the streamlining of USDA—60 percent entails the domestic programs. It deals with the nutrition, food stamps, feeding the elderly, nutrition information—60 percent.

Also we have the Forest Service and Soil Conservation. That is only like about 9 percent. Rural Development is about 8 percent. And, as I mentioned, the commodity program.

But everything that USDA does entails supporting programs that bring income. The balance of trade, where we deal with the world, everything on agriculture, manufactured items, there is one here, one there, that is selling. But collectively, we have a deficit of about \$125 billion, a deficit. The only thing that brings money in collectively is agriculture, about \$18 to \$20 billion. And I have a chart here, the green part, that is agriculture collectively. The red part, that is everybody else. So that is what we are dealing with.

Also, let me state—the top 10 entitlements, the bottom one of the entitlements is the price support programs that we have for agriculture. But of the top 10 entitlements, it is the only one projecting a decrease in cost, 1.4 percent in the years between 1991 and 1997. We are dealing with food safety; we are dealing with all of the agencies of the Department of Agriculture, all of the offices out there in the countryside. And this bill gives the Secretary authority that he does not have to reorganize and to meet the challenges that the people of this country have presented to us. The bill also requires the Secretary to reduce personnel and staff over the next 5 years. We have local elected farmer committees closer to field offices. That might save some money.

So, Madam Chairman, the bulk of this legislation is basically technical—to consolidate, to streamline, and to make, in 1994, the Department of Agriculture what President Lincoln wanted it to be in 1862.

Madam Chairman, I reserve the balance of my time.

□ 1420

Mr. ROBERTS. Madam Chairman, I yield myself such time as I may consume.

My colleagues, about 2 years ago, the Clinton administration and, more especially, Secretary Espy announced they were going to reorganize the Department of Agriculture and that reform effort, although that always worries me, what lurks under the banner of reform in terms of unintended effects, but that reform effort followed a similar effort in the Bush administration by Secretary Madigan to consolidate and to reorganize and to achieve cost savings within the Department of Agriculture and also in regards to the field offices that serve as the infrastructure, the delivery system of the farm program to our producers.

The effort by Secretary Madigan was to achieve cost savings and, hopefully, to make the farm program or the delivery of the farm program more farmer-friendly. And I know that is Secretary Espy's goal as well.

At the time we examined the Secretary's authority. And when I say "at the time," I am talking about both Secretary Madigan and Secretary Espy, and when I say "we," I am talking about members of the House Committee on Agriculture which have been very much involved with this effort for several years. And we examined the secretary's authority to restructure the agencies of the Department and found that the Secretary of Agriculture has 85 to 90 percent of the authority that he needs to complete the job. In other words, the secretary can act on his own behalf without passing legislation in the Congress to achieve these cost savings that the chairman of the committee has mentioned and, hopefully, again, make the delivery service of our farm program more farmer-friendly.

And, that is certainly an issue out in farm country with, all the paperwork and regulations and time spent in regards to the farm program.

Well, hindsight and personal observation, and I understand that hindsight is always 20/20 around here, but that tells me that instead of really beginning that task on an administrative basis immediately, the administration simply sent up a bill and waited for its passage. And I would tell my colleagues that when we have legislation of this magnitude and that will attract this much interest, it does engender significant controversy and has consumed a great deal of time, almost 2 years.

So after a lengthy committee process, we are now bringing a bill to the floor today that may not be what the Secretary wants or what this Member wants or what the chairman wants or what other Members want or certainly what the farmer and rancher wants, and this bill has created significant controversy.

But having said that, let me say that too much time has already been wasted. There is a need to get on with reorganizing the Department of Agriculture, so while I still have serious, very serious reservations about the course this legislation has taken, I support the effort to move the process along.

I will also be supporting the amendment to be offered today by the gentleman from Colorado [Mr. ALLARD], a member of the committee, to provide a better farmer support agency structure for the Department. This is needed to ensure that we avoid any unnecessary disruption of service to our farmers while streamlining the work of the Department of Agriculture.

My colleagues, the one really innovative section of this bill, in my personal opinion, was offered in committee by my colleague, the gentleman from California [Mr. CONDIT], to require a careful assessment of risk and evaluation of the benefits of risk management for actions of the department, and I am talking about health and safety or environmental regulations. This is an integral part of the ongoing effort to produce more careful and reasonable risk management regulation in all departments, all departments of government. The Condit amendment has attracted a considerable difference of opinion between other committees, other Members, I understand that. But the Condit amendment also is boilerplate legislation.

And let us tell it like it is. Something like the Condit amendment should be applied to all Federal agencies in order to make our Government be a partnership with people, not an adversary, and hopefully to make government much more cost effective and to protect the individual rights of the people who are affected by the regulations that tend to stream out of Washington.

I may be offering an amendment to strengthen the Condit provision. The amendment that I am going to be offering, in behalf of the gentleman from Florida [Mr. CANADY] and myself, would ensure that the rulemakers in fact carry out a proper risk assessment.

A strengthened Condit provision would take a major step toward, I think, bringing balance and reason back to the whole business of environmental regulation.

The issues in this bill and the amendments I have mentioned are directed to the structure and the functioning of the Department of Agriculture as a whole. While they are important, while they have attracted considerable difference of opinion, let me echo the statement of my distinguished chairman.

I hope that my colleagues who have other individual issues they want to address will keep this in mind, that

this is more of a technical bill and defer their amendments until we take up programs in the farm bill or some other appropriate vehicle and we will do that.

Our purpose here today is to restructure the Department, to achieve the cost savings, to make it more farmer-friendly. And we should keep that in mind as we consider any other amendments.

Madam Chairman, I reserve the balance of my time.

Mr. DE LA GARZA. Madam Chairman, I yield myself such time as I may consume.

Let me thank my distinguished colleague from Kansas for his presentation and his always very wise statements. We have no disagreement. This is not the best of times. This may not be the bill that each one of us wants. But now is the time for us to act, and that is why we find ourselves here.

I would like to add further, though, that this process began back with the Bush administration and Secretary Madigan. They had a Commission to go out throughout the countryside and, my humble colleague did not mention the fact that our colleagues, the gentleman from Texas [Mr. STENHOLM] and the gentleman from Kansas [Mr. ROBERTS], were part of that Commission. So a lot of the information and a lot of the thrust that has been incorporated came from that Commission, and these two gentlemen played a major part in the endeavor.

Madam Chairman, H.R. 3171, the Department of Agriculture Reorganization Act of 1994, provides for a major restructuring and streamlining of the Department of Agriculture.

The committee believes this legislation is needed—not because USDA is a burden on the budget, for it is not—but because we believe the Department's structure must change to meet our Nation's changing needs.

The bill the Committee on Agriculture brings to the floor today has three principal objectives.

First, the bill mandates revisions in USDA's organizational structure to better reflect its modern-day activities. It endorses the six broad mission areas carried out by the Department and creates Under Secretary positions to head up each area. Those missions are:

- To serve farmers and ranchers.
- To promote economic and community development in rural areas.
- To provide food assistance and educate the general population about proper nutrition.

- To promote soil and water conservation and to meet other environmental goals in rural areas.

- To ensure the quality and safety of our food.

- To carry out agricultural research, economic analyses and educate the American public.

Madam Chairman, each of these missions is vitally important to our Nation. In particular, I would point out that this bill establishes a separate Under Secretary for Food Safety at USDA, whose sole responsibility will be to administer USDA's vital food safety and meat and poultry inspection programs.

Second, the bill allows the Secretary to improve services to all who use USDA programs through a more efficient management of USDA personnel and the use of modern technology.

The bill requires USDA to combine farm-related agencies and field offices to provide "one-stop shopping." It establishes an independent appeals process. It encourages the development of computer and other information systems that will allow the exchange of information between programs and agencies.

Third, the bill requires USDA to undergo organizational and management changes that are designed to save the taxpayers' money in the years to come.

The bill requires the Secretary to reduce total USDA personnel\* by 7,500 staff years over the next 5 years—a process USDA has already begun. Improved computer capabilities are also designed to save money in the years ahead. And of course, the bill allows the Secretary to go forward with his announced intentions to close and consolidate USDA farm agency field offices.

WHAT THE REORGANIZATION BILL DOES NOT DO

Madam Chairman, I also think it important that the Members understand what this bill does not do.

Field office closures: This bill does not limit in any way the Agriculture Secretary's current authority to consolidate or close USDA field offices around the country. The Secretary has pledged to begin downsizing the field office network once Congress completes action on the reorganization bill. This bill supports that end by reaffirming the Secretary's authority to downsize the field office network.

Locally elected farmer committees: The committee bill also maintains the successful system of using locally elected committees of farmers to help implement USDA farm programs at the county level. These committees are a democratic institution that helps ensure that USDA programs are implemented with common sense at the local level.

The committee-reported bill recognizes the need to increase the involvement of minority farmers in the county committee system. The bill continues the Secretary's authority to appoint nonvoting minority advisors to local committees. In addition, the committee-reported bill adds a new directive for outreach to encourage greater diversity among the farmer nominees who stand for election to these local committees.

Separate conservation agency: Finally, this bill continues the separate administration of research conservation programs from our farm commodity programs.

The majority of the committee believe—and I share this view—that our Nation's farmers are best served by a separate and strong agency at USDA to oversee our resource conservation programs. This enhances the credibility of USDA's conservation and environmental efforts. And it also recognizes the fact that a significant portion of USDA activities in this area is actually serving State and local governmental entities.

Let me make clear that this provision does not in any way limit the Secretary's authority to collocate these conservation agency offices with the farm program agency in the same town and the same building.

ADDITIONAL PROVISIONS TO BE OFFERED IN EN BLOC AMENDMENT

Madam Chairman, I intend to offer in the Committee of the Whole several amendments packaged en bloc. These amendments—which has been agreed to on both sides of the aisle—seek to address the concerns raised by various Members since the committee reported the bill. Let me briefly explain what these en bloc amendments do.

National Appeals Division: The en bloc amendment includes additional legislative guidance on the structure and procedures to be used by the new independent National Appeals Division.

Local farmer committees: The en bloc amendment reaffirms the authorities of the local-elected farmer committee in two very important ways. First, the en bloc includes an amendment that clarifies that the county or area elected committee will continue to have the authority to appoint the executive director for the local Agricultural Service Agency offices. Second, the en bloc amendment includes a provision that prohibits the Secretary from merging farmer-elected county committees unless the farmers vote for the merger.

Socially disadvantaged farmers: The en bloc amendment strengthens the Secretary's authority to ensure the fair and equitable treatment of all socially disadvantaged farmers who participate in USDA farm programs. The en bloc includes an amendment that requires the Secretary to take certain actions with respect to farm program operations to rectify any past USDA decisions not made in accordance with laws against discrimination. It also requires a GAO study to determine whether socially disadvantaged farmers are underrepresented on the farmer-elected county and area committees, and whether such underrepresentation has led to bias in committee decisions.

Computer purchases: The en bloc includes an amendment that clarifies the budgetary aspects of the bill's require-

ment that new computer equipment purchases by USDA facilitate inter-agency communications. Simply put, the en bloc requires that when the Secretary procures computer systems authorized in advance through appropriations acts, the Secretary is to do so in a manner that enhances efficiency, productivity, and client services.

SIGNIFICANCE OF THE REORGANIZATION EFFORT

Madam Chairman, the Department of Agriculture is one of our Nation's most important domestic agencies, and its work and activities touch the lives of all Americans. The Department is not a static, unchanging bureaucracy. While farm programs are still an important function at USDA, they actually involve only about one-quarter of its total outlays.

The Department of Agriculture has, in fact, evolved to meet the changing needs and priorities of our society. More than half of its funding goes to our vital domestic food assistance programs. USDA is a major force in recreation and the environment through its management of our national forests and its soil and water conservation assistance for private lands.

The Department also oversees the Federal-State research partnership at our Nation's land-grant universities that have provided so many scientific advancements for our society. USDA helps provide housing and water services for low-income people living in rural areas. And its Extension Service helps people in urban and rural areas improve their lives.

Today's Department of Agriculture truly serves all Americans. The Department's success in developing our Nation's agricultural system and improving the lives of the American people is in no small part due to the dedicated service and work of its employees.

What this reorganization bill represents is another step forward in the Department's continuing evolution. This bill will provide for a renewal and, we hope, a reinvigoration of the Department's activities.

Madam Chairman, the changes proposed in this bill reflect USDA's modern-day responsibilities as we see them today. We recognize USDA's responsibilities will continue to change, and that the Department's structure will continue to evolve.

Making USDA a more cost-effective and efficient department of Government that works for the benefit of taxpayers, farmers, consumers, and all who use USDA programs requires an on-going commitment by both Congress and the executive branch. H.R. 3171 fulfills that commitment to improve USDA's organization and management structure as we see it today. I urge my colleagues to support H.R. 3171.

BRIEF SUMMARY OF H.R. 3171, DEPARTMENT OF AGRICULTURE REORGANIZATION ACT OF 1994 AS AMENDED AND REPORTED BY THE COMMITTEE ON AGRICULTURE

Streamlines national office structure: Realigns functions and establishes 6 top appointed Under Secretary positions, subject to Senate confirmation, based on USDA's 6 basic mission areas as outlined by the Administration proposal.

Downsizes USDA employment and field offices: Requires reduction in Federal employment by at least 7,500 staff years by Fiscal Year 1999. Requires greater staff cuts in Washington headquarters than in field offices. Clears the way for the Secretary of Agriculture to proceed with announced plans for the closure or consolidation of 1,100 USDA field offices.

Improves services to farmers: Consolidates direct farm program functions (Agricultural Stabilization and Conservation Service, Federal Crop Insurance Corporation and farm-lending by Farmers Home Administration) into a single Agricultural Service Agency. Requires collocation of USDA field offices to provide "one-stop" service and budget savings.

Strengthens rural development activities: Consolidates rural economic development functions under an Under Secretary for Rural and Community Development.

Elevates food safety responsibilities: Designates for the first time an Under Secretary for Food Safety to administer USDA's food safety activities, and separates this function from USDA's farm marketing activities.

Enhances sensible environmental efforts: Elevates conservation activities within USDA by creating an Under Secretary for Natural Resources and Environment. Permits the Secretary to create a Natural Resources Conservation Service. Ensures farmer-elected committee input into initial producer appeals of conservation decisions by the USDA conservation agency. Establishes an office at USDA to analyze the risk/benefit of proposed regulations.

Establishes independent appeals process: Establishes an independent National Appeals Division to handle administrative appeals of agency decisions.

Madam Chairman, I yield 3 minutes to the gentleman from Texas [Mr. STENHOLM], chairman of the subcommittee, who did yeoman work on this endeavor.

Mr. STENHOLM. Madam Chairman, passage of H.R. 3171 will clear the way for the long-needed restructuring of the Department of Agriculture. The bill has three very important objectives: First, to create a USDA structure that can better respond to the future challenges facing the food and fiber industry, consumers, rural Americans, and taxpayers; second, to improve services to USDA's many diverse clients; third, to streamline the Department to achieve management efficiencies and cost savings for taxpayers.

This legislation culminates a painstaking and bipartisan process that began during the 102d Congress. Work was started during the previous administration under Secretary Madigan. At that time, I, along with the ranking minority member of the committee, the gentleman from Kansas, were asked to travel across the country with the Department to hear from USDA

employees, farmers, ranchers, and other clients about how to improve structures and services.

Last fall, the administration brought our committee a bill to achieve modernization. Since last year, the committee and the Subcommittee on Department Operations and Nutrition held four hearings in Washington, DC, and nine hearings in the field—in Iowa, Georgia, Arkansas, Nebraska, North Dakota, Indiana, Texas, California, and Pennsylvania—to receive testimony on how the Department should be reorganized. We gathered extensive testimony from Department officials, including the Secretary and Deputy Secretary, and from approximately 250 public witnesses.

Utilizing that input, my subcommittee, in February, marked up a comprehensive bill that was amended and approved by the full Agriculture Committee on June 16. The bill we have brought to the floor: first of all, reflects the six missions of the Department that the Secretary originally spelled out—elevating and putting on an equal level with production agriculture other increasingly important functions including nutrition, food safety, the environment, and rural development; our bill provides the Department with broad flexibility to reorganize. Too many times, we in Congress tie the hands of the Secretary by trying to micro-manage his or her work, often creating more problems than we solve; it requires an independent national appeals division; it locks into law the staff cuts, the consolidation of field office administrative functions, and the computer improvements that the administration says it wants.

Some may argue that this bill will not accomplish much more than the Department can already do. We disagree. The issue at hand is whether we will provide the appropriate guidance to achieve our goals in the most thoughtful, prudent manner possible—and not undermine those USDA programs and services that producers, consumers, food program recipients, and other clients rely on.

This bill does not change those programs and policies—that is our job for next year—when we will be writing the 1995 farm bill. This bill today will give us a USDA that will become more efficient, client-friendly, and prepared for the challenges of tomorrow.

□ 1430

Mr. ROBERTS. Madam Chairman, I yield such time as he may consume to the gentleman from Nebraska [Mr. BARRETT] who represents the Third District, the area from which many fine football players come.

Mr. BARRETT of Nebraska. Madam Chairman, I thank my ranking member for yielding time to me, and for the generous introduction.

Madam Chairman, I want to thank the Agriculture Committee chairman,

and his staff, for including my provision relating to county committees in his en bloc amendment.

This is an important provision to the many farmers who participate in USDA commodity programs involving the election of county committees. The measure prevents the termination and consolidation of existing county committees, with another county committee, or area committee, unless the farmers vote to do so.

I had previously offered a similar version at the subcommittee and full committee level, and am indeed grateful to the chairman for understanding the importance of having farmer-elected county committees. These committees will be allowed to continue to help administer farm programs at the local level.

Farm programs and rules for compliance are becoming more and more complicated. It is vital to agricultural producers to have trust and confidence in those who will administer these programs. It is imperative we keep those with local knowledge, and who understand the different conditions which may exist in their county, when considering farmers compliance.

The administration's proposal for the Agriculture Department reorganization will close or consolidate approximately 1,200 USDA field offices. The original bill would have terminated county committees and established a new procedure of selection by appointment. Area-wide field offices would be served by one committee.

Eliminating hundreds of county committees would have removed important elements of local control. There is no way a committee member can be as knowledgeable about a large area of up to five or more counties, as committee members who serve a single county.

In fact, some States now have consolidated field offices which serve one or more counties. In those instances, they have kept in place the individual county committees to keep local control over questions relating to farmer compliance and appeals.

It is clear, the present traditional system within USDA which allows for local administration of farm programs works. The Barrett provision will ensure that it continues with this new reorganization.

Mr. DE LA GARZA. Madam Chairman, I yield 3 minutes to our distinguished colleague, the gentleman from South Dakota [Mr. JOHNSON].

Mr. JOHNSON of South Dakota. Madam Chairman, I rise in support of H.R. 3171, which contains provisions which would establish an independent National Appeals Division within the Department of Agriculture. I want to thank Chairman DE LA GARZA and Chairman STENHOLM for working with me to include this title in the reorganization legislation.

Among the changes we could see with reorganization, the establishment of a

National Appeals Division is among the most important in terms of its direct impact on farmers and ranchers. We have amended the various appeals statutes a number of times over the last several years, but we still have an appeals process that farmers do not trust and many do not participate in because they feel they are not going to receive an impartial hearing.

That is why I introduced H.R. 2950 with a number of my colleagues. A National Appeals Division clear of any undue influence from the agencies which are making the determinations, should help to bolster producers' confidence in their ability to receive a fair and impartial hearing. We have designed the process so that producers will know what to expect and when to expect it.

The NAD title does nothing to change the current county and State committee informal appeal process through the ASCS and also encourages the use of mediation where it is available to avoid having to go to the NAD. However, to make the process farmer-friendly, the hearing officers of the NAD will be located out in the field as is the case with the Farmers Home NAD. I would tell my colleagues that most of the language in the NAD title is taken from current law. All we are doing is bringing the appeal provisions to each of the agencies under one entity.

Again, I want to thank Chairmen DE LA GARZA and STENHOLM for working with me to include this important provision in the USDA reorganization legislation.

Mr. ROBERTS. Madam Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. SMITH].

Mr. SMITH of Michigan. Madam Chairman, I thank the gentleman for yielding time to me.

Madam Chairman, having served 4 years, from 1969 to 1974, as a deputy administrator in ASCS, I am firmly convinced that it is very important to give the Secretary of Agriculture flexibility to design, organize, and implement the administrative operation and organization of the U.S. Department of Agriculture.

I am frustrated that the consolidation of USDA field offices to increase the efficiency, throughout the farm communities of the United States has to be accomplished through passage of another law rather than action by the administration. It was not accomplished under Secretary Madigan and it has not been accomplished under Secretary Espy. Those individuals, Secretaries of Agriculture have had the authority to consolidate but have not acted because of potential political pressure of Congressmen arguing that their county offices should not be closed, consolidated, or reorganized.

However, these are administrative decisions that ultimately must rest

with the administration and with the respective secretaries of the different departments of the Federal Government. I urge this administration and every administration to be responsible and not to seek cover through congressional mandates.

Make no mistake, this bill is a cover from criticism from the Secretary of Agriculture to close and make efficient changes in the organizations of those USDA field offices by having it mandated under law. I would strongly urge this administration and every other administration to make the changes necessary, rather than putting off those decisions and asking for a congressional mandate by law.

Mr. DE LA GARZA. Madam Chairman, I yield 2 minutes to our distinguished colleague, the gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Madam Chairman, I am appreciative of the gentleman from Texas [Mr. DE LA GARZA] for his diligent work, and also for the efforts of the ranking member, Mr. ROBERTS, and the subcommittee chairman, the gentleman from Texas [Mr. STENHOLM], in putting this critical USDA reorganization legislation together. As an original cosponsor of H.R. 3171, I rise in strong support of this legislation. Consistent with the Vice President's Re-inventing Government, this legislation will allow the Secretary of Agriculture to make the necessary changes in the Department to prepare us for the needs of the next century.

H.R. 3171 will refashion not only the USDA national headquarters through streamlining and making current operations more efficient, it modifies the way we think about local services by providing one-stop shopping and collocation of services for the benefit of our nation's farmers and ranchers in ways which are sensible and workable.

Madam Chairman, I also applaud the gentleman for his work in addressing the issue of diversity for our local Agricultural Service Agency county committees. As the gentleman knows, this is an issue of major significance for those who have been traditionally left out of the equation—that is, women, minorities, and limited-resource farmers. Through opening up the nomination process, allowing the Secretary discretion to adjust yields for the purposes of administering various farm programs, and requiring a GAO report on this historical problem, I believe we are taking a significant step forward. Although I would have chosen a more direct remedy to resolve this representation issue, I look forward to working with the gentleman and my other colleagues in the future to address this matter of concern.

As a new Member from an extremely rural region in eastern North Carolina, I believe that this legislation is good for rural America. The bottom line for the Department is that it serve the

needs of Americans who depend on it for its services. The USDA plays a profound role in insuring that American agriculture and nutrition remain at the highest levels of quality and accessibility. I urge my colleagues to support American farmers and those who depend on USDA services by supporting this legislation.

□ 1440

Mr. ROBERTS. Madam Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. DE LA GARZA. Madam Chairman, I yield 2 minutes to the distinguished gentleman from California [Mr. FARR].

Mr. FARR of California. Madam Chairman, as an original cosponsor of this bill, I would like to first of all commend our embattled Secretary of Agriculture Mike Espy. Whatever challenges he may currently face, let us give credit where credit is due. This administration is committed to reinventing Government and Mr. Espy has fulfilled that promise by getting to us a plan focused on improving efficiency and service while at the same time, cutting costs.

I would also like to express my admiration and support of Chairman DE LA GARZA and Mr. STENHOLM's diligence and dedication to this reorganization bill.

Madam Chairman, in its current form this bill contains a provision that would create an Office of Environmental Risk within the Department of Agriculture which would effectively mandate risk and cost-benefit analysis for public health and safety, and environmental regulations.

The risk assessment provision was adopted in full committee at the last minute, with no prior warning, and was passed with little debate, by voice vote, and with few members present.

This is a very controversial provision that is being presented to my colleagues and to the public as a good government provision. It would require the Office of Environmental Risk to certify that benefits to public health and safety justify the costs.

If this is a good government provision then I am sure that those supporting it will be willing to come forward and reassure me that it applies to all major USDA regulations including commodity programs.

If they are not able to do this, then it will be clear that it is targeted at certain types of regulations including nutrition programs and environmental programs.

I look forward to developments on this issue on the floor today. If there are no positive developments, I may be forced to withdraw my support for this bill.

Mr. DE LA GARZA. Madam Chairman, I yield 2 minutes to the distinguished gentleman from Washington [Mr. KREIDLER].

Mr. KREIDLER. Madam Chairman, I rise in support of the provisions in this bill that will help USDA do a better job protecting the public health and the safety of meat and poultry.

Nearly 2 years ago in Washington State, three children lost their lives, dozens more were hospitalized, and hundreds of people were affected by an outbreak of deadly food poisoning, traced to a microbe in undercooked hamburger. That tragedy was a wake-up call for USDA, for public health authorities, and for all of us.

Since then, there have been at least 45 outbreaks of E. coli infection, and at least 15 deaths, in all parts of this country—Washington, Oregon, Minnesota, California, Nebraska, North Carolina, Vermont, North Dakota, Ohio, Massachusetts, New York, Connecticut, Hawaii, New Jersey, Florida, Pennsylvania, Montana, Wisconsin, Alabama, Illinois, and Indiana.

A system that spends half a billion dollars a year to inspect meat and poultry, and allows products to go on the market with a label saying they are safe or wholesome, is a system that can no longer ignore the microscopic pathogens that present the greatest danger.

It is not enough to blame the victims who didn't cook the meat. It is not enough to require warning labels on raw meat and poultry. It is not enough to blame the inspectors who have to use 19th century methods on the threshold of the 21st century.

It is time to bring modern science to meat and poultry inspection, and Mike Espy has done more in the past year and a half than any of his predecessors in this century to improve food safety.

Title VII of this bill will help him do more. It separates inspection from marketing. It requires that the person in charge of food safety actually know something about public health. It gives food safety the priority it should have, by making the Under Secretary for Food Safety a Presidential appointee.

A lot of people—a lot of my constituents—believe that USDA cannot be trusted to protect the safety of meat and poultry. They think some other agency would do better. Maybe they are right. But I care more about getting the job done than about who does it.

Mike Espy is committed to safer meat and poultry. He has appointed people who are committed and knowledgeable. He has proposed a Pathogen Reduction Act, to test for pathogens and trace back contaminated meat to the source—a bill which I hope the Committee on Agriculture will make its first order of business in the next Congress.

Let us give him the tools to do the job, starting with title VII of this bill. I urge my colleagues to support it.

Mr. DE LA GARZA. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I thank the gentleman for his contribution. I can assure him and all of our colleagues that we on the committee certainly will continue working on this issue. We are satisfied that the Department has worked diligently on this issue and I commend Secretary Espy for his leadership in this area. We are appreciative of everything that he has done. This is to assure our colleagues that in this and several other areas of concern that do not rightly belong in this legislation, our commitment is to continue to work with our colleagues as we move into 1995 and draft the farm bill legislation.

Madam Chairman, I yield 2 minutes to the distinguished gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Madam Chairman, I thank the gentleman for yielding me the time.

Madam Chairman, I wanted to take this opportunity during general debate to express my strong support for the legislation before us today. I applaud the leadership of the gentleman from Texas [Mr. DE LA GARZA], the chairman of the committee, in moving this legislation through committee and onto the House floor. I appreciate the interest expressed by those on the other side of the aisle. I understand they may have some amendments for us to consider today, but I believe we all share a desire to reorganize the Department of Agriculture and to position ourselves for leadership on rural and agricultural issues on into the next century. The reorganization plan has been in the works for literally years but that effort was accelerated under the leadership of our new Secretary of Agriculture Mike Espy who in my opinion has done outstanding work on behalf of American agriculture.

The effort to consolidate and co-locate offices makes eminent sense in the 1990's, a time when fax machines and 800 numbers and other conveniences allow us to achieve these sorts of cost-saving initiatives while still providing farmers with the sort of service they have come to expect from the Department of Agriculture.

I am also supportive of the efforts of my colleague, the gentleman from California [Mr. FARR], to include in this legislation risk assessment provisions which will help our farmers to be protected against unnecessary intrusions from bureaucrats who do not necessarily understand what it means to farm and make a living on the land and hope that his language can be contained in this bill as we move it on to the Senate.

This is part of the President's reorganization of Government initiative. I think it is one of the most exciting aspects of his agenda for the Nation. We on the Committee on Agriculture should be proud that we are the first to step forward with a major restructur-

ing plan. I trust that we will see other departments and agencies restructured accordingly. It will save taxpayers money and improve the services of government. Again I commend the chairman for his leadership in bringing this issue to the House.

Mr. DE LA GARZA. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I thank the gentleman for his contribution. Let me add that the gentleman of his own volition and accord has decided not to remain a member of this body. Let me at this point in time pay tribute to his great contribution, his dedication in everything worthwhile for agriculture. Now and then we may not have agreed on an item, but his seriousness and his work and the efforts which he thought were correct and proper needs to be applauded. I do that at this point in time. I wish him well.

Mr. ROBERTS. Madam Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Kansas.

□ 1450

Mr. ROBERTS. I would like to echo the comments of my distinguished chairman, more especially relative to the outstanding service of the gentleman from Minnesota [Mr. PENNY]. In behalf of my Kansas producers and all of us in agriculture and all of us on the minority side of the House Agriculture Committee I want to commend him for a very dedicated and conscientious career in public service, not only in regards to legislative matters, but the personal example that he certainly emulates in regards to comity and fairness and personal treatment of other Members. Simply said, Mr. PENNY, you will be sorely missed.

I thank the chairman for yielding.

Mr. DE LA GARZA. I thank the gentleman from Kansas and echo his sentiments. We wish well to the gentleman from Minnesota [Mr. PENNY] in his further endeavors.

Mr. BISHOP. Madam Chairman, I rise today in vigorous support of H.R. 3171, as reported by the Agriculture Committee, of which I am a member, and I want to thank my chairman, Mr. DE LA GARZA, for the courage and diligence he has shown in the enormous and complex task of crafting and refining legislation that reorganizes the U.S. Department of Agriculture.

The issue of reorganizing the Department of Agriculture is one of agriculture's most important policy challenges in decades, and one of my first official actions as a Member this body was to make a formal request that field hearings be held on this matter, and that Georgia be the site of one of those hearings, and I also want to thank Chairman STENHOLM of Texas for bringing the Subcommittee on Department Operations to Georgia for this purpose. The result of this legislation will have a profound impact on how all of our farm programs are implemented at the local level and

here in Washington. For example, it will provide a new emphasis on nutrition, and save billions of dollars for the Treasury by streamlining the delivery of services to citizens throughout the Nation.

The Department of Agriculture is an extremely complex organization which has developed into a bureaucratic monster, burdening our farmers with over regulation, compromising the nutrition of our children's school lunches, and providing fodder for negative connotations associated with agriculture in the mind of the public. We must take steps to correct this perception or all of our farm programs will remain in jeopardy.

I believe that we must streamline the Department and its services, and on that I hope we can all agree. However, we must move in a logical and careful manner. Most importantly, we must not compromise our rural communities for the sake of bureaucratic convenience, and never forget that our No. 1 priority in this reorganization process is to improve the services provided to the customers of USDA—whether it be farmers who participate in conservation programs, farmers who use ASCS farm programs, or the children who are fed in our school lunch programs.

The Agriculture Department Reorganization Act reduces costs, cuts waste, streamlines operations, and improves services to farmers and other customers of USDA. H.R. 3171 consolidates farm price support, crop insurance, and agricultural loan programs into a single farm service agency, which allows farmers a one-stop shop for farmer programs. The bill places all agricultural conservation programs within a natural resources conservation service and reorganizes various rural development and rural electrification programs into a rural community development service.

H.R. 3171 streamlines USDA by requiring a reduction in the number of its employees by 7,500 staff-years by the end of 1999. It is important to note that the bill requires larger staff cuts in the Department's headquarters offices than in its field offices, and the measure specifies that the overall reduction in headquarters personnel must be twice as great, on a percentage basis, as the reduction in field office personnel. I mention these reductions to point out the wisdom in this bill that we are not abandoning our farmers and rural communities in this reorganization, but we hope to achieve a more effective and cost-savings delivery of services to the people who feed and clothe all the citizens of the United States and increasingly the world.

Secretary Espy should be commended for bringing this issue to the forefront, and for his commitment to start the reorganization process here in USDA Washington offices, before suggesting that field offices be closed. Therefore, I strongly support the passage of this substitute offered by Mr. DE LA GARZA.

Ms. LONG. Madam. Chairman, I rise to commend Chairman DE LA GARZA, Subcommittee Chairman STENHOLM, and the other members of the House Agriculture Committee who have worked so hard on this legislation. Contrary to some of the concerns that have been raised, this legislation is, on balance, a major undertaking that will reinvent and reorganize the U.S. Department of Agriculture. Madam Chairman, the USDA is the second largest department in the Federal Government—second

in size and personnel only to the Department of Defense. Reorganizing USDA has not been easy. Secretary Espy has been an advocate of reorganizing the Department, not just by consolidating and coordinating the various agricultural offices located in the States, but by reorganizing the bureaucracy right here in Washington, DC. Despite some of the concerns raised today—and let me say that I also have several concerns which I hope can be addressed in the conference—but despite some concerns, this is needed and comprehensive legislation that should be approved by the Congress. Reorganization of USDA is the first major department to undertake this re-inventing and reorganizing effort. It is my hope that others will take the lead of the House and Senate Agriculture Committees and get on with the business of re-inventing and reorganizing some of the other Federal departments.

Mr. GLICKMAN. Madam Chairman, as we vote on this bill today, we must consider what we are hearing from people across the country. Americans are alienated from and angry with a distant, ineffective, and seemingly unresponsive Federal Government. Business as usual is over, it is time to reorganize the way government works. Those of us in agriculture must step up to the same challenge. The logical place to begin is with the overwhelming size and complexity of the Department of Agriculture. The job will not be finished until, from top to bottom and headquarters to country office, we have transformed a 19th century levathan into a structure able to meet the challenges of the 21st century.

I have introduced two bills in the last 2 years, that laid the foundation and ground work for the bill we are debating today. This legislation will streamline both the farmer service agencies and the Washington bureaucracy of USDA. I strongly support H.R. 3171.

The legislation introduced today calls for a transformation. It will map out a comprehensive reorganization plan for USDA, to streamline and make more efficient its county offices and cut its redtape. It will lead, I hope, to a more efficient, more responsive bureaucracy.

This legislation includes consolidating farmer programs and services into one agency. Then for example, a farmer would be able to go to just one office for basic farm programs, for loans and crop insurance, instead visiting each office separately.

The bill also requires the Secretary to establish an independent entity within USDA to hear farmer's appeals of program decisions. As it is now, essentially the same people in charge of carrying out the programs are also in charge of hearing appeals of rulings affecting those programs. This is obviously a basic conflict of interest which must be remedied.

Furthermore, H.R. 3171 elevates the importance of food safety in the Department. In order to separate food safety programs from other agriculture interests, the bill establishes a new position, an Under Secretary for Food Safety.

I am convinced that reorganizing USDA is a long overdue task. The time for study has passed. We have heard testimony from farmers, producer groups, USDA and county employees, and received numerous reports from the General Accounting Office. For example, in 1991 the General Accounting Office re-

leased a report of a 3-year review of USDA's management and structure, which stated in part:

USDA's organizational structure—essentially unchanged since the 1930's—is not responsive to the new challenges facing the Department. Consolidating and integrating organizational functions would allow USDA to provide the same services and more efficiently to agribusiness customers and give it flexibility to meet needs more effectively.

The restructuring and evolution of the Department of Agriculture should have happened years ago. We must pass this legislation now. Farmers and taxpayers will ultimately be better served by a more efficient and streamlined bureaucracy. It will save money and will give farmers more time to be farmers. I urge my colleagues to support H.R. 3171.

Ms. MCKINNEY. Mr. Chairman, I come before this body today to thank Chairman DE LA GARZA for including language that will address the issue of diversity on the U.S. Department of Agriculture [USDA] farmer committees. I'd like to commend the chairman for taking a stand on an issue that's so important to the farmers in all of America's farming districts.

For too long, Mr. Chairman, farmer committees have operated without proper representation for women, African-Americans, Hispanics, and other groups. A more diversified membership on USDA's powerful county committees will certainly reduce if not eliminate the possibility of discrimination in USDA programs.

I have no doubt, Mr. Chairman, that when the Comptroller General prepares a report to determine whether "socially disadvantaged producers" are underrepresented on State, county, and local committees, it will show decades of severe under-representation of female and minority farmers and most notably African-Americans. It will show that we have to take steps now to ensure greater diversity of racial, ethnic, and gender representation on State, county and local committees.

Mr. SMITH of Michigan. Mr. Chairman, I want to thank Chairman DE LA GARZA for including my amendment in his en bloc amendment. My amendment allows the Secretary to have some discretion in holding off on consolidations if it is not in the best interest of farmers and it won't increase efficiency. It is extremely important that we don't sacrifice the quality of service to farmers in our efforts to combine field office agencies. I'm glad the Chair and I were able to work together to ensure that USDA reorganization improves the efficiency and effectiveness of field office service.

Mr. CONDIT. Mr. Chairman, I am submitting the following comments concerning the language that has been negotiated in conference concerning my risk assessment provision in the USDA reorganization bill, H.R. 3171. This language represents both important gains and the need to revisit this issue next year.

As I am sure you are already aware, the risk assessment-cost benefit analysis issue is a major impediment to the passage of several important pieces of environmental and organizational legislation. The fact that we have been able to craft a compromise that accom-

plishes many of our original goals is significant.

Specifically, I would point to the establishment of an Office of Risk Assessment and Cost-Benefit Analysis as a major development in the field of regulatory reform. I am also pleased that this legislation will assure that USDA regulations dealing with health, the environment, or public safety will contain the information that the public needs to comprehend the risk; the costs of addressing it, and the benefits it will receive from these expenditures.

There are, however, several shortcomings in the compromise that I would like to address. First, there is a fundamental weakness in the comparative risk language contained in the compromise. The language states that "where appropriate and meaningful" the Secretary shall include risk comparisons. I firmly believe that "appropriate and meaningful" is entirely too subjective of a standard. It is my belief that comparative risk should be an absolute requirement in this provision and it should only be waived if an apt comparison is an absolute impossibility, in which case a detailed explanation should be contained in the Federal Register along with the regulation.

Another objection I have to the compromise document is that it allows the Secretary to skip the risk-assessment, cost-benefit analysis requirement altogether if compelling circumstances arise. This standard fails to establish any definition whatsoever for the word compelling.

Compounding my frustration on this issue is the fact that I had prepared language based upon the President's Executive order on regulatory review in an effort to solve this impasse. My language would have restricted the exemption to emergencies, court orders and other provisions of law. Had I been extended the simple courtesy of being invited to the table to negotiate on my amendment I am confident that this issue could have been resolved to everyone's satisfaction.

The only other major objection I have to the compromise deals with the evaluation component. My original language called for a full secretarial certification on the contents of the risk assessment/cost benefit analysis. I understand the view of those who objected to this provision, yet I cannot believe that this compromise has resulted in a clearer statute. On the other hand, I am grateful that the language I requested to reveal the cost imposed by regulation upon local, State, and other public and private entities was retained.

During the next Congress I have every intention of aggressively performing oversight of the creation of the office. The statute states clearly that 6 months from enactment cost benefit and risk analyses will be published for all major regulations dealing with health, the environment, or public safety. I do not intend to allow this to be taken lightly.

The farm bill will be reauthorized next year and I therefore intend to attempt to correct some of the shortcomings I have outlined by

amending the appropriate regulatory titles in the bill.

In closing, let me stress that risk assessment and cost benefit analysis has proven to be the great bill killer of the 103d Congress. The USDA reorganization bill is very likely going to be the only major legislation that will pass in this Congress that contains any strong risk assessment/cost benefit provisions. I am proud that I am the author of this language and grateful to those who assisted in its becoming law.

We have finally established the starting line from which the 104th Congress can create a consistent, comprehensive, and coherent regulatory policy that incorporates risk assessment and cost benefit analysis.

Mr. BROWN of California. Mr. Speaker, we are all pleased to have contributed to the effort initiated by the administration to reorganize the Department of Agriculture. I participated in the effort to slow the consideration of this bill by the House, not because I objected to reorganizing USDA, but because I objected to language that I believe was designed to cripple USDA's regulatory authority and to set a precedent for this in other Government agencies. This bill is likely to be the only one which will emerge from this Congress which contains provisions on risk assessment and cost-benefit analysis of major regulations promulgated by the Agency.

The language contained in the conference bill is the product of long negotiation, and represents a good-faith effort by all who are concerned about this issue. I believe that we have provided a viable starting point for a debate that is sure to continue into the next Congress. This language is the basis for an experiment which will provide us with some tangible evidence of the utility of risk assessment and cost-benefit analyses in regulatory decision making.

I would like to offer my views on the proper role of risk assessment and cost-benefit analysis in the regulatory decisionmaking process. The most strident proponents of these provisions in this Congress claim that their goal is to ensure that state-of-the-art scientific information is used to direct Agency rulemaking. They claim that they are not interested in weakening health and safety standards or environmental protection, but are simply trying to ensure that regulations are cost effective and that our scarce resources are utilized efficiently. This is about good government and fiscal responsibility.

The compromise language that appears in this conference report represents a good-faith effort to foster these goals: the original language offered in the House Agriculture Committee was not. I believe that if it were, there would not have been such concerted efforts made to reassure all of the supporters of commodity and price-support programs that these provisions would not apply to them. This

puzzles me, and has contributed to my continuing skepticism of the merits of these proposals mandating the use of these analyses. If the goal is good government, fiscal responsibility, and cost-effective decision making why did my colleagues rush to restrict these risk assessments and cost-benefit analyses to a subset of regulations promulgated by USDA? Why were these provisions only offered in the context of regulation in the areas of public health and environmental protection? Good government and sound decision making should apply throughout the Government in all contexts.

Risk assessments and cost-benefit analyses are two valuable tools that can and should be used to assist decision makers in developing cost-effective regulatory policy. However, I believe that it is a grave mistake to require analyses that will overburden the Agency, and produce results that are designed to confuse the public and ridicule regulatory actions that are taken to protect public health and safety and the environment.

By contrast, the provision for comparisons of risks included in the bill we passed ensures that sensible, relevant comparisons will be utilized to provide useful information to the public and to USDA regulators. I believe that this compromise provision on regulatory analysis is now in a form that will guide the regulatory process not destroy it. Our scientific knowledge base is impressive, but it is not complete enough to allow anyone to predict with certainty the nature of the risks which we impose upon ourselves through the many actions taken by individuals and industries in our society.

The promulgation of regulations is necessary to protect public health, safety, and the environment and to prevent us from having to spend increasingly scarce Federal dollars to clean up or mitigate the unintended effects of our economic activities. Pollution prevention is one of the most cost-effective strategies that we can pursue. If we had regulated the disposal of toxic substances earlier, we would not be facing the tremendous cleanup and litigation costs of Superfund today. We cannot afford to foreclose options to regulate potentially hazardous activities. It is too expensive in human terms and in financial ones.

Whether they recognize it or not, many of the risk assessment proposals that have been offered in this Congress start from the assumption that pollution is not a risk to human health and the environment. They make the argument that if we cannot prove that some action results in a measurable risk, agencies should assume the action to be risk-free and issue no regulation. This type of strategy will lead to agencies issuing regulations only after some problem is evident, and, unfortunately, for victims and taxpayers, the

regulation will come too late to prevent damage to health and the environment and the outlay of Federal dollars to mitigate the identified problem. I believe that we should recognize the limits of our knowledge, learn from our past mistakes, and permit agencies charged with the task of protecting public health, safety, and the environment to provide an adequate margin of safety for all of our citizens.

I hope that we can cast aside some of the unproductive efforts of this Congress and begin to discuss intelligent approaches to fostering the use of valuable analytical tools in a way that will assist Federal regulatory agencies in developing cost-effective policies to protect human health, safety, and the environment.

Mr. DE LA GARZA. Madam Chairman, I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the committee amendment in the nature of a substitute now printed in the bill is considered as an original bill for the purpose of amendment and is considered as having been read.

The text of the committee amendment in the nature of a substitute is as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION I. SHORT TITLE AND TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the "Department of Agriculture Reorganization Act of 1994".

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

- Sec. 1. Short title and table of contents.  
Sec. 2. Definitions.

**TITLE I—GENERAL REORGANIZATION AUTHORITIES**

- Sec. 101. Transfer of Department functions to Secretary of Agriculture.  
Sec. 102. National Appeals Division.  
Sec. 103. Reductions in number of Department personnel.  
Sec. 104. Combination of field offices.  
Sec. 105. Improvement of information sharing.  
Sec. 106. Director of External affairs.  
Sec. 107. Director for Administration.

**TITLE II—FARM AND FOREIGN AGRICULTURAL SERVICES**

- Sec. 201. Under Secretary of Agriculture for Farm and Foreign Agricultural Services.  
Sec. 202. Agricultural Service Agency.  
Sec. 203. State, county, and area committees.

**TITLE III—RURAL ECONOMIC AND COMMUNITY DEVELOPMENT**

- Sec. 301. Under Secretary of Agriculture for Rural Economic and Community Development.

**TITLE IV—FOOD, NUTRITION, AND CONSUMER SERVICES**

- Sec. 401. Under Secretary of Agriculture for Food, Nutrition, and Consumer Services.

**TITLE V—NATURAL RESOURCES AND ENVIRONMENT**

- Sec. 501. Under Secretary of Agriculture for Natural Resources and Environment.

**TITLE VI—RESEARCH, EDUCATION, AND ECONOMICS**

Sec. 601. Under Secretary of Agriculture for Research, Education, and Economics.

**TITLE VII—FOOD SAFETY**

Sec. 701. Under Secretary of Agriculture for Food Safety.

**TITLE VIII—MISCELLANEOUS PROVISIONS**

Sec. 801. Expansion of issues covered by State mediation programs.

Sec. 802. Successorship provisions relating to bargaining units and exclusive representatives.

Sec. 803. Conditions on implementation of alteration in level of selenium allowed in animal diets.

Sec. 804. Office of environmental risk assessment.

Sec. 805. Repeal of superseded provisions.

Sec. 806. Conforming amendments.

Sec. 807. Proposed conforming amendments.

**SEC. 2. DEFINITIONS.**

Except where the context requires otherwise, for purposes of this Act:

(1) **DEPARTMENT.**—The term "Department" means the Department of Agriculture.

(2) **NATIONAL APPEALS DIVISION.**—The term "National Appeals Division" means the National Appeals Division of the Department established under section 102.

(3) **SECRETARY.**—The term "Secretary" means the Secretary of Agriculture.

**TITLE I—GENERAL REORGANIZATION AUTHORITIES****SEC. 101. TRANSFER OF DEPARTMENT FUNCTIONS TO SECRETARY OF AGRICULTURE.**

(a) **TRANSFER OF FUNCTIONS.**—Except as provided in subsection (b), there are hereby transferred to the Secretary of Agriculture all functions of all agencies, offices, officers, and employees of the Department that are not already vested in the Secretary as of the date of the enactment of this Act.

(b) **EXCEPTIONS.**—Subsection (a) shall not apply to the following functions:

(1) Functions vested by subchapter II of chapter 5 of title 5, United States Code, in administrative law judges employed by the Department.

(2) Functions vested by the Inspector General Act of 1978 (5 U.S.C. App.) in the Inspector General of the Department.

(3) Functions vested by chapter 9 of title 31, United States Code, in the Chief Financial Officer of the Department.

(4) Functions vested in the corporations of the Department or the boards of directors and officers of such corporations.

(5) Functions vested in the Alternative Agricultural Research and Commercialization Board by the Alternative Agricultural Research and Commercialization Act of 1990 (7 U.S.C. 5901 et seq.).

(6) Functions vested in the advisory board of the Commodity Credit Corporation established by section 9(b) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714g(b)).

**(c) DELEGATION OF AUTHORITY.**

(1) **DELEGATION AUTHORIZED.**—Subject to paragraph (2), the Secretary may delegate to any agency, office, officer, or employee of the Department the authority to perform any function transferred to the Secretary under subsection (a) or any other function vested in the Secretary as of the date of the enactment of this Act.

(2) **EXCEPTION.**—The delegation authority provided by paragraph (1) shall be subject to—

(A) sections 105(b)(1), 106(b)(1), 201(b)(1), 202(b)(1), 301(b)(1), 401(b)(1), 501(b)(1), 601(b)(1), 601(c)(2), 701(b)(1), 803, and 904 of this Act;

(B) sections 502 and 503 of the Agricultural Trade Act of 1978 (7 U.S.C. 5692 and 5693); and

(C) section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)), as amended by section 203(a) of this Act.

(d) **COST-BENEFIT ANALYSIS REQUIRED FOR NAME CHANGE.**—

(1) **ANALYSIS REQUIRED.**—Except as provided in paragraph (2), the Secretary shall conduct a cost-benefit analysis before changing the name of any agency, office, division, or other unit of the Department to ensure that the benefits to be derived from changing the name of the agency, office, division, or other unit outweigh the expense of executing the name change.

(2) **EXCEPTION.**—Paragraph (1) shall not apply with respect to any name change specifically provided for in this Act.

(e) **PUBLIC COMMENT ON PROPOSED REORGANIZATION.**—To the extent that the implementation of the authority provided to the Secretary by this Act to reorganize the Department involves the creation of new agencies or offices within the Department or the delegation of major functions or major groups of functions to any agency or office of the Department (or the officers thereof), the Secretary shall, to the extent considered practicable by the Secretary—

(1) give appropriate advance public notice of the proposed reorganization action or delegation; and

(2) afford appropriate opportunity for interested parties to comment on the proposed reorganization action or delegation.

(f) **INTERAGENCY TRANSFER OF RECORDS, PROPERTY, PERSONNEL, AND FUNDS.**—

(1) **RELATED TRANSFERS.**—Subject to paragraph (2), as part of the transfer or delegation of a function of the Department made or authorized by this Act, the Secretary may transfer within the Department—

(A) any of the records, property, or personnel affected by the transfer or delegation of the function; and

(B) unexpended balances (available or to be made available for use in connection with the transferred or delegated function) of appropriations, allocations, or other funds of the Department.

(2) **APPLICABLE LAW RELATING TO FUNDS TRANSFER.**—Section 1531 of title 31, United States Code, shall apply to any transfer of funds under paragraph (1).

**SEC. 102. NATIONAL APPEALS DIVISION.**

(a) **ESTABLISHMENT.**—Notwithstanding section 426 of the Agricultural Act of 1949 (7 U.S.C. 1433e) or section 333B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983b), the Secretary shall establish a National Appeals Division in the Department.

(b) **JURISDICTION.**—The Secretary may assign to the National Appeals Division established under subsection (a) all administrative appeals arising under the laws referred to in subsection (a) or under any other law that confers authority upon the Secretary or the Department.

(c) **DIRECTOR.**—The National Appeals Division shall be headed by a Director appointed by the Secretary from among individuals with substantial experience in administrative law.

(d) **PROCEDURES.**—The Secretary shall establish procedures applicable to administrative appeals under the jurisdiction of the National Appeals Division.

(e) **EFFECT ON RIGHTS OF PROGRAM PARTICIPANTS.**—Notwithstanding the other provisions of this section, the rights afforded program participants under the laws referred to in subsection (a) shall not be limited or abridged by this section.

(f) **FINAL DECISIONS IN APPEALS.**—The Secretary may make final decisions in appeals under the jurisdiction of the National Appeals Division, including appeals filed under the laws referred to in subsection (a), or delegate author-

ity to make such final decisions to the Director of the Division.

**SEC. 103. REDUCTIONS IN NUMBER OF DEPARTMENT PERSONNEL.**

(a) **NUMBER OF REDUCTIONS REQUIRED.**—The Secretary shall achieve Federal employee reductions of at least 7,500 staff years within the Department by the end of fiscal year 1999.

(b) **TOP-DOWN REDUCTIONS REQUIRED.**—In achieving the employee reductions required in subsection (a), the Secretary shall ensure that the percentage by which total employee staff years in headquarters offices is reduced is at least twice as great as the percentage by which total employee staff years in field offices is reduced.

**SEC. 104. COMBINATION OF FIELD OFFICES.**

(a) **COMBINATION OF OFFICES REQUIRED.**—The Secretary shall combine field offices of agencies within the Department to improve service to clients and reduce personnel and duplicative overhead expenses.

(b) **JOINT USE OF RESOURCES AND OFFICES REQUIRED.**—When two or more agencies share a common field office, the Secretary shall require the agencies to jointly use office space, equipment, office supplies, administrative personnel, and clerical personnel associated with that field office.

**SEC. 105. IMPROVEMENT OF INFORMATION SHARING.**

Subject to the provision of funds in advance in appropriations Acts for this purpose, the Secretary shall procure and use computer systems that enhance efficiency, productivity, and client services and are consistent with the goal of promoting computer information sharing among agencies of the Department.

**SEC. 106. DIRECTOR OF EXTERNAL AFFAIRS.**

(a) **ESTABLISHMENT.**—There is established in the Department the position of Director of External Affairs of the Department of Agriculture. The Director of External Affairs shall be appointed by the President, by and with the advice and consent of the Senate.

**(b) FUNCTIONS OF DIRECTOR.**

(1) **PRINCIPAL FUNCTIONS.**—The Secretary shall delegate to the Director of External Affairs those functions and duties that were under the jurisdiction of the Assistant Secretary of Agriculture for Congressional Relations and the Director of Public Affairs of the Department as of the date of the enactment of this Act.

(2) **ADDITIONAL FUNCTIONS.**—The Director of External Affairs shall perform such other duties as may be required by law or prescribed by the Secretary.

(c) **SUCCESSION.**—Any official who is serving as Assistant Secretary of Agriculture for Congressional Relations on the date of the enactment of this Act and who was appointed by the President, by and with the advice and consent of the Senate—

(1) shall be considered to be serving in the successor position established by subsection (a); and

(2) shall not be required to be reappointed to that position by reason of the enactment of this Act.

(d) **CONFORMING AMENDMENT.**—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Director of External Affairs of the Department of Agriculture."

**SEC. 107. DIRECTOR FOR ADMINISTRATION.**

(a) **ESTABLISHMENT.**—There is established in the Department the position of Director for Administration of the Department of Agriculture. The Director for Administration shall be appointed by the President, by and with the advice and consent of the Senate.

**(b) FUNCTIONS OF DIRECTOR.**

(1) **PRINCIPAL FUNCTIONS.**—The Secretary shall delegate to the Director for Administration

those functions and duties that were under the jurisdiction of the Assistant Secretary for Administration of the Department as of the date of the enactment of this Act.

(2) **ADDITIONAL FUNCTIONS.**—The Director for Administration shall perform such other duties as may be required by law or prescribed by the Secretary.

(c) **SUCCESSION.**—Any official who is serving as Assistant Secretary of Agriculture for Administration on the date of the enactment of this Act and who was appointed by the President, by and with the advice and consent of the Senate—

(1) shall be considered to be serving in the successor position established by subsection (a); and

(2) shall not be required to be reappointed to that position by reason of the enactment of this Act.

(d) **CONFORMING AMENDMENT.**—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Director for Administration of the Department of Agriculture."

## TITLE II—FARM AND FOREIGN AGRICULTURAL SERVICES

### SEC. 201. UNDER SECRETARY OF AGRICULTURE FOR FARM AND FOREIGN AGRICULTURAL SERVICES.

(a) **ESTABLISHMENT.**—There is established in the Department the position of Under Secretary of Agriculture for Farm and Foreign Agricultural Services. The Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(b) **FUNCTIONS OF UNDER SECRETARY.**—

(1) **PRINCIPAL FUNCTIONS.**—The Secretary shall delegate to the Under Secretary of Agriculture for Farm and Foreign Agricultural Services those functions and duties under the jurisdiction of the Department that are related to farm and foreign agricultural services.

(2) **ADDITIONAL FUNCTIONS.**—The Under Secretary of Agriculture for Farm and Foreign Agricultural Services shall perform such other functions and duties as may be required by law or prescribed by the Secretary.

(c) **SUCCESSION.**—Any official who is serving as Under Secretary of Agriculture for International Affairs and Commodity Programs on the date of the enactment of this Act and who was appointed by the President, by and with the advice and consent of the Senate—

(1) shall be considered to be serving in the successor position established by subsection (a); and

(2) shall not be required to be reappointed to that position by reason of the enactment of this Act.

(d) **CONFORMING AMENDMENTS.**—

(1) **EXISTING POSITION.**—Section 501 of the Agricultural Trade Act of 1978 (7 U.S.C. 5691), relating to the Under Secretary of Agriculture for International Affairs and Commodity Programs, is repealed.

(2) **EXECUTIVE SCHEDULE.**—Section 5314 of title 5, United States Code, is amended by striking "Under Secretary of Agriculture for International Affairs and Commodity Programs." and inserting "Under Secretary of Agriculture for Farm and Foreign Agricultural Services."

### SEC. 202. AGRICULTURAL SERVICE AGENCY.

(a) **ESTABLISHMENT.**—The Secretary shall establish and maintain an Agricultural Service Agency within the Department.

(b) **FUNCTIONS OF AGRICULTURAL SERVICE AGENCY.**—

(1) **PRINCIPAL FUNCTIONS.**—The Secretary shall carry out through the Agricultural Service Agency the following activities that are under the jurisdiction of the Department:

(A) Agricultural price and income support programs and related programs.

(B) General supervision of the Federal Crop Insurance Corporation.

(C) Notwithstanding any other provision of law, agricultural credit programs formerly assigned by law to the Farmers Home Administration (including farm ownership and operating, emergency, and disaster loan programs) and other lending programs for farmers and others engaged in the production of agricultural commodities.

(D) Agricultural conservation cost-share and demonstration programs carried out by the Agricultural Stabilization and Conservation Service or the Farmers Home Administration as of the date of the enactment of this Act.

(2) **ADDITIONAL FUNCTIONS.**—The Secretary may assign to the Agricultural Service Agency such additional functions as the Secretary considers appropriate in connection with the administration and implementation of authorities assigned to the Secretary by law.

(c) **JURISDICTION OVER CONSERVATION PROGRAM APPEALS.**—

(1) **IN GENERAL.**—Until such time as an adverse decision described in this paragraph is referred to the National Appeals Division for consideration, the Agricultural Service Agency shall have initial jurisdiction over any administrative appeal resulting from an adverse decision made under title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.), including an adverse decision involving technical determinations made by the Soil Conservation Service.

(2) **TREATMENT OF TECHNICAL DETERMINATION.**—With respect to administrative appeals involving a technical determination made by the Soil Conservation Service, the Agricultural Service Agency, by rule with the concurrence of the Soil Conservation Service, shall establish procedures for obtaining review by the Soil Conservation Service of the technical determinations involved. Such rules shall ensure that technical criteria established by the Soil Conservation Service shall be used by the Agricultural Service Agency as the basis for any decisions regarding technical determinations.

(3) **REINSTATEMENT OF PROGRAM BENEFITS.**—Rules issued to carry out this subsection shall provide for the prompt reinstatement of benefits to a producer who is determined in an administrative appeal to meet the requirements of title XII of the Food Security Act of 1985 applicable to the producer.

(4) **DEFINITION.**—For purposes of this subsection, the term "Soil Conservation Service" includes any successor agency to the Soil Conservation Service.

(d) **USE OF FEDERAL AND NON-FEDERAL EMPLOYEES.**—

(1) **USE AUTHORIZED.**—In the implementation of programs and activities assigned to the Agricultural Service Agency, the Secretary may use interchangeably in local offices of the agency both Federal employees of the Department and non-Federal employees of county and area committees established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)).

(2) **EXCEPTION.**—Notwithstanding paragraph (1), no personnel action (as defined in section 2302(a)(2)(A) of title 5, United States Code) may be taken with respect to a Federal employee unless such action is taken by another Federal employee.

(e) **CONFORMING AMENDMENTS.**—

(1) **CROP INSURANCE.**—The Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) is amended—

(A) in section 505(a) (7 U.S.C. 1505(a)), by striking "the Under Secretary or Assistant Secretary of Agriculture responsible for the farm credit programs of the Department of Agriculture," and inserting "one additional Under Secretary of Agriculture as designated by the Secretary,"; and

(B) in section 507(d) (7 U.S.C. 1507(d)), by striking "except" and all that follows through "agency".

(2) **FARM AND RURAL DEVELOPMENT.**—Section 331(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981(a)) is amended by striking "assets to the Farmers Home Administration" and all that follows through the period and inserting "assets to such officers or agencies of the Department of Agriculture as the Secretary considers appropriate."

### SEC. 203. STATE, COUNTY, AND AREA COMMITTEES.

(a) **AMENDMENT TO THE SOIL CONSERVATION AND DOMESTIC ALLOTMENT ACT.**—Section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) is amended—

(1) by inserting "(1)" after "(b)";

(2) by designating the second through eighth undesignated paragraphs as paragraphs (2) through (8), respectively; and

(3) by striking paragraph (5) (as so designated) and inserting the following new paragraph:

"(5) **STATE, COUNTY, AND AREA COMMITTEES.**—  
 "(A) **APPOINTMENT OF STATE COMMITTEES.**—The Secretary shall appoint in each State a State committee composed of not fewer than 3 nor more than 5 members who are fairly representative of the farmers in the State. The members of a State committee shall serve at the pleasure of the Secretary for such term as the Secretary may establish.

"(B) **ESTABLISHMENT OF COUNTY OR AREA COMMITTEES.**—(i) In each county or area in which activities are carried out under this section, the Secretary shall establish a county or area committee.

"(ii) Any such committee shall consist of not fewer than 3 nor more than 5 members who are fairly representative of the farmers in the county or area and who shall be elected by the farmers in such county or area under such procedures as the Secretary may prescribe.

"(iii) Only farmers within a local administrative area who are producers who participate or cooperate in programs administered within their area shall be eligible for nomination and election to the local committee for that area.

"(iv) The Secretary shall solicit and accept nominations from organizations representing the interests of socially disadvantaged groups (as defined in section 355(e)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(e)(1)).

"(v) Members of each county or area committee shall serve for terms not to exceed 3 years.

"(C) **USE OF COMMITTEES.**—The Secretary shall use the services of such committees in carrying out programs under this section and the agricultural credit programs under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) and in considering administrative appeals under the jurisdiction of the Agricultural Service Agency, as provided by section 202(c) of the Department of Agriculture Reorganization Act of 1994. In addition, to the extent the Secretary determines appropriate, the Secretary may use the services of such committees in carrying out programs under other authorities administered by the Secretary.

"(D) **REGULATIONS.**—The Secretary shall issue such regulations as the Secretary considers necessary relating to the selection and exercise of the functions of the respective committees, and to the administration through such committees of the programs described in subparagraph (C). Regulations governing payments or grants under this subsection shall be as simple and direct as possible, and, whenever practicable, they shall be classified on the following two bases:

"(i) Soil-depleting practices.

"(ii) Soil-building practices.

"(E) **MANDATORY DUTIES OF SECRETARY.**—In carrying out this section, the Secretary shall—

"(i) insofar as practicable, protect the interests of tenants and sharecroppers;

"(ii) accord such encouragement to producer-owned and producer-controlled cooperative associations as will be in harmony with the policy toward cooperative associations set forth in Federal laws and as will tend to promote efficient methods of marketing and distribution;

"(iii) in every practicable manner, protect the interests of small producers; and

"(iv) in every practical way, encourage and provide for soil-conserving and soil-rebuilding practices.

"(F) DISCRETIONARY AUTHORITIES OF SECRETARY.—In carrying out this section, the Secretary may use other approved agencies.

"(G) LIMITATIONS.—In carrying out this section, the Secretary shall not have the authority to acquire any land or any right or interest in land."

(b) CONFORMING AMENDMENTS.—The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) is amended—

(1) by striking section 332 (7 U.S.C. 1982); and

(2) in section 333 (7 U.S.C. 1983)—

(A) by striking paragraph (2); and

(B) redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.

### TITLE III—RURAL ECONOMIC AND COMMUNITY DEVELOPMENT

#### SEC. 301. UNDER SECRETARY OF AGRICULTURE FOR RURAL ECONOMIC AND COMMUNITY DEVELOPMENT.

(a) ESTABLISHMENT.—There is established in the Department the position of Under Secretary of Agriculture for Rural Economic and Community Development. The Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(b) FUNCTIONS OF UNDER SECRETARY.—

(1) PRINCIPAL FUNCTIONS.—The Secretary shall delegate to the Under Secretary of Agriculture for Rural Economic and Community Development those functions and duties under the jurisdiction of the Department that are related to rural economic and community development.

(2) ADDITIONAL FUNCTIONS.—The Under Secretary of Agriculture for Rural Economic and Community Development shall perform such other functions and duties as may be required by law or prescribed by the Secretary.

(c) SUCCESSION.—Any official who is serving as Under Secretary of Agriculture for Small Community and Rural Development on the date of the enactment of this Act and who was appointed by the President, by and with the advice and consent of the Senate—

(1) shall be considered to be serving in the successor position established by subsection (a); and

(2) shall not be required to be reappointed to that position by reason of the enactment of this Act.

(d) LOAN APPROVAL AUTHORITY.—Approval authority for loans and loan guarantees in the electric and telephone loan and loan guarantee programs authorized by the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) shall not be transferred to, or conditioned upon review of, a State director or other employee whose primary duty is not the review and approval of such loans or the provision of assistance to such borrowers.

(e) CONFORMING AMENDMENTS.—

(1) EXISTING POSITION.—Section 3 of the Rural Development Policy Act of 1980 (7 U.S.C. 2211b) is amended by striking subsection (a).

(2) EXECUTIVE SCHEDULE.—Section 5314 of title 5, United States Code, is amended by striking "Under Secretary of Agriculture for Small Community and Rural Development." and inserting "Under Secretary of Agriculture for Rural Economic and Community Development."

(f) AMENDMENTS TO THE RURAL ELECTRIFICATION ACT OF 1936.—The Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) is amended—

(1) in section 1 (7 U.S.C. 901), by striking the first sentence;

(2) in section 2(a) (7 U.S.C. 902(a)), by striking "Administrator" and inserting "Secretary of Agriculture";

(3) in section 3(a) (7 U.S.C. 903(a))—

(A) by striking "Administrator, upon the request and approval of the Secretary of Agriculture," and inserting "Secretary"; and

(B) by striking "Administrator appointed pursuant to the provisions of this Act or from the Administrator of the Rural Electrification Administration established by Executive Order Numbered 7037" and inserting "Secretary";

(4) in section 8 (7 U.S.C. 908)—

(A) by striking "Administrator authorized to be appointed by this Act" and inserting "Secretary"; and

(B) by striking "Rural Electrification Administration created by this Act" and inserting "Secretary";

(5) by striking section 11A (7 U.S.C. 911a);

(6) in section 13 (7 U.S.C. 913), by inserting before the period the following: "the term 'Secretary' shall be deemed to mean the Secretary of Agriculture";

(7) in sections 206(b)(2), 306A(b), 311, and 405(b)(1)(A) (7 U.S.C. 927(b)(2), 936a(b), 940a, and 945(b)(1)(A)), by striking "Rural Electrification Administration" each place it appears and inserting "Secretary";

(8) in sections 305(c)(2)(C)(ii)(II) and 306E(d) (7 U.S.C. 935(c)(2)(C)(ii)(II) and 936e(d)), by striking "ADMINISTRATOR" both places it appears and inserting "SECRETARY";

(9) in section 403(b) (7 U.S.C. 943(b)), by striking "Rural Electrification Administration or of any other agency of the Department of Agriculture," and inserting "Secretary";

(10) in section 404 (7 U.S.C. 944), by striking "the Administrator of the Rural Electrification Administration" and inserting "The Secretary shall designate an official of the Department of Agriculture who";

(11) in sections 406(c) and 410 (7 U.S.C. 946(c) and 950), by striking "Administrator of the Rural Electrification Administration" each place it appears and inserting "Secretary";

(12) in the heading of section 501 (7 U.S.C. 950aa), by striking "OF REA ADMINISTRATOR"; and

(13) except as otherwise provided in this subsection, by striking "Administrator" each place it appears in such Act and inserting "Secretary".

(g) MISCELLANEOUS AMENDMENTS RELATED TO RURAL ELECTRIFICATION ADMINISTRATION.—(1) Section 236(a) of the Disaster Relief Act of 1970 (7 U.S.C. 912a) is amended by striking "Rural Electrification Administration" and inserting "Secretary under the Rural Electrification Act of 1936".

(2) Section 505 of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 915) is amended—

(A) by striking "Rural Electrification Administration" and inserting "Secretary of Agriculture"; and

(B) by striking "its" and inserting "the Secretary's".

(3) Section 401 of the Rural Electrification Act of 1938 (7 U.S.C. 903 note, 52 Stat. 818) is amended in the second paragraph by striking "Administrator of the Rural Electrification Administration" and inserting "Secretary of Agriculture".

(4) Chapter 1 of subtitle D of title XXIII of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 950aaa et seq.), relating to Distance Learning and Medical Link Programs, is amended—

(A) in section 2333—

(i) by striking paragraph (1); and

(ii) by redesignating paragraphs (2) through (11) as paragraphs (1) through (10), respectively;

(B) in section 2334(h)(2), by striking "section 2333(3)(F)" and inserting "section 2333(2)(F)"; and

(C) by striking "Administrator" each place it appears and inserting "Secretary".

### TITLE IV—FOOD, NUTRITION, AND CONSUMER SERVICES

#### SEC. 401. UNDER SECRETARY OF AGRICULTURE FOR FOOD, NUTRITION, AND CONSUMER SERVICES.

(a) ESTABLISHMENT.—There is established in the Department the position of Under Secretary of Agriculture for Food, Nutrition, and Consumer Services. The Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(b) FUNCTIONS OF UNDER SECRETARY.—

(1) PRINCIPAL FUNCTIONS.—The Secretary shall delegate to the Under Secretary of Agriculture for Food, Nutrition, and Consumer Services those functions and duties under the jurisdiction of the Department that are related to food, nutrition, and consumer services (except as provided in section 701(b)(1)).

(2) ADDITIONAL FUNCTIONS.—The Under Secretary of Agriculture for Food, Nutrition, and Consumer Services shall perform such other functions and duties as may be required by law or prescribed by the Secretary.

(c) SUCCESSION.—Any official who is serving as Assistant Secretary of Agriculture for Food and Consumer Services on the date of the enactment of this Act and who was appointed by the President, by and with the advice and consent of the Senate—

(1) shall be considered to be serving in the successor position established by subsection (a); and

(2) shall not be required to be reappointed to that position by reason of the enactment of this Act.

(d) EXECUTIVE SCHEDULE.—Section 5314 of title 5, United States Code, is amended by inserting after the item relating to the Under Secretary of Agriculture for Farm and Foreign Agricultural Services (as added by section 201(d)(2)) the following:

"Under Secretary of Agriculture for Food, Nutrition, and Consumer Services."

### TITLE V—NATURAL RESOURCES AND ENVIRONMENT

#### SEC. 501. UNDER SECRETARY OF AGRICULTURE FOR NATURAL RESOURCES AND ENVIRONMENT.

(a) ESTABLISHMENT.—There is established in the Department the position of Under Secretary of Agriculture for Natural Resources and Environment. The Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(b) FUNCTIONS OF UNDER SECRETARY.—

(1) PRINCIPAL FUNCTIONS.—The Secretary shall delegate to the Under Secretary of Agriculture for Natural Resources and Environment those functions and duties under the jurisdiction of the Department that are related to natural resources and the environment (except to the extent those functions and duties are delegated to the Agricultural Service Agency under section 202).

(2) ADDITIONAL FUNCTIONS.—The Under Secretary of Agriculture for Natural Resources and Environment shall perform such other functions and duties as may be required by law or prescribed by the Secretary.

(c) SUCCESSION.—Any official who is serving as Assistant Secretary of Agriculture for Natural Resources and Environment on the date of the enactment of this Act and who was appointed by the President, by and with the advice and consent of the Senate—

(1) shall be considered to be serving in the successor position established by subsection (a); and

(2) shall not be required to be reappointed to that position by reason of the enactment of this Act.

(d) EXECUTIVE SCHEDULE.—Section 5314 of title 5, United States Code, is amended by inserting after the item relating to the Under Secretary of Agriculture for Food, Nutrition, and Consumer Services (as added by section 401(d)) the following:

"Under Secretary of Agriculture for Natural Resources and Environment."

(e) CONFORMING AMENDMENTS.—

(1) SOIL CONSERVATION SERVICE.—Section 5 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590e) is repealed.

(2) SOIL AND WATER RESOURCES CONSERVATION.—The Soil and Water Resources Conservation Act of 1977 (16 U.S.C. 2001) is amended—

(A) in section 2(2) (16 U.S.C. 2001(2))—

(i) by striking "created the Soil Conservation Service"; and

(ii) by striking "Department of Agriculture which" and inserting ", has ensured that the Department of Agriculture";

(B) in section 3(2) (16 U.S.C. 2002(2)), by striking "through the Soil Conservation Service"; and

(C) in section 6(a) (16 U.S.C. 2005(a)), by striking "Soil Conservation Service" and inserting "Secretary".

#### TITLE VI—RESEARCH, EDUCATION, AND ECONOMICS

##### SEC. 601. UNDER SECRETARY OF AGRICULTURE FOR RESEARCH, EDUCATION, AND ECONOMICS.

(a) ESTABLISHMENT.—There is established in the Department the position of Under Secretary of Agriculture for Research, Education, and Economics. The Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(b) FUNCTIONS OF UNDER SECRETARY.—

(1) PRINCIPAL FUNCTIONS.—The Secretary shall delegate to the Under Secretary of Agriculture for Research, Education, and Economics those functions and duties under the jurisdiction of the Department that are related to research, education, and economics.

(2) ADDITIONAL FUNCTIONS.—The Under Secretary of Agriculture for Research, Education, and Economics shall perform such other functions and duties as may be required by law or prescribed by the Secretary.

(c) COOPERATIVE STATE RESEARCH AND EDUCATION SERVICE.—

(1) ESTABLISHMENT.—The Secretary shall establish and maintain within the Department a Cooperative State Research and Education Service.

(2) DUTIES.—The Secretary shall delegate to the Cooperative State Research and Education Service functions related to cooperative State research programs and cooperative extension and education programs that are under the jurisdiction of the Department.

(3) OFFICER-IN-CHARGE.—The officer in charge of the Cooperative State Research and Education Service shall report directly to the Under Secretary of Agriculture for Research, Education, and Economics.

(d) EXECUTIVE SCHEDULE.—Section 5314 of title 5, United States Code, is amended by inserting after the item relating to the Under Secretary of Agriculture for Natural Resources and Environment (as added by section 501(d)) the following:

"Under Secretary of Agriculture for Research, Education, and Economics."

#### TITLE VII—FOOD SAFETY

##### SEC. 701. UNDER SECRETARY OF AGRICULTURE FOR FOOD SAFETY.

(a) ESTABLISHMENT.—There is established in the Department of Agriculture the position of Under Secretary of Agriculture for Food Safety.

The Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals with specialized training or significant experience in food safety or public health programs.

(b) FUNCTIONS OF UNDER SECRETARY.—

(1) PRINCIPAL FUNCTIONS.—The Secretary shall delegate to the Under Secretary of Agriculture for Food Safety those functions and duties under the jurisdiction of the Department that are related to food safety.

(2) ADDITIONAL FUNCTIONS.—The Under Secretary of Agriculture for Food Safety shall perform such other functions and duties as may be required by law or prescribed by the Secretary.

(c) EXECUTIVE SCHEDULE.—Section 5314 of title 5, United States Code, is amended by inserting after the item relating to the Under Secretary of Agriculture for Research, Education, and Economics (as added by section 601(d)) the following:

"Under Secretary of Agriculture for Food Safety."

#### TITLE VIII—MISCELLANEOUS PROVISIONS

##### SEC. 801. EXPANSION OF ISSUES COVERED BY STATE MEDIATION PROGRAMS.

(a) EXPANSION OF MEDIATION PROGRAMS.—Section 501 of the Agricultural Credit Act of 1987 (7 U.S.C. 5101) is amended—

(1) in subsection (a), by striking "an agricultural loan mediation program" and inserting "a mediation program";

(2) in subsection (b), by striking "agricultural loan"; and

(3) by striking subsection (c) and inserting the following new subsection:

"(c) REQUIREMENTS OF STATE MEDIATION PROGRAMS.—

"(1) ISSUES COVERED.—To be certified as a qualifying State, the mediation program of the State must provide mediation services for the persons described in paragraph (2) who are involved in agricultural loans or agricultural loans and one or more of the following issues under the jurisdiction of the Department of Agriculture:

"(A) Wetlands determinations.

"(B) Compliance with farm programs, including conservation programs.

"(C) Agricultural credit.

"(D) Rural water loan programs.

"(E) Grazing on National Forest System lands.

"(F) Pesticides.

"(G) Such other issues as the Secretary considers appropriate.

"(2) PERSONS ELIGIBLE FOR MEDIATION.—The persons referred to in paragraph (1) are producers, their creditors (if applicable), and other persons directly affected by actions of the Department of Agriculture.

"(3) CERTIFICATION CONDITIONS.—The Secretary shall certify a State as a qualifying State with respect to the issues proposed to be covered by the mediation program of the State if the mediation program—

"(A) provides for mediation services that, if decisions are reached, result in mediated, mutually agreeable decisions between the parties to the mediation;

"(B) is authorized or administered by an agency of the State government or by the Governor of the State;

"(C) provides for the training of mediators;

"(D) provides that the mediation sessions shall be confidential;

"(E) ensures, in the case of agricultural loans, that all lenders and borrowers of agricultural loans receive adequate notification of the mediation program; and

"(F) ensures, in the case of other issues covered by the mediation program, that persons directly affected by actions of the Department of Agriculture receive adequate notification of the mediation program."

(b) PARTICIPATION OF DEPARTMENT.—Section 503 of such Act (7 U.S.C. 5103) is amended—

(1) by striking "agricultural loan" each place it appears;

(2) in the matter preceding subparagraph (A) of subsection (a)(1)—

(A) by inserting "or agency" after "program"; and

(B) by striking "that makes, guarantees, or insures agricultural loans";

(3) in subsection (a)(1)(A)—

(A) by inserting "or agency" after "such program"; and

(B) by inserting "certified under section 501" after "mediation program";

(4) in subsection (a)(1)(B)—

(A) by striking ", effective beginning on the date of the enactment of this Act."; and

(B) by inserting "certified under section 501" after "mediation programs"; and

(5) in subsection (a)(1)(C)—

(A) in clause (i), by striking "described in" and inserting "certified under"; and

(B) in clause (ii), by inserting "if applicable," before "present".

(c) REGULATIONS.—Section 504 of such Act (7 U.S.C. 5104) is amended—

(1) by striking "Within 150 days after the date of the enactment of this Act, the" and inserting "The"; and

(2) by adding at the end the following new sentence: "The regulations prescribed by the Secretary shall require qualifying States to adequately train mediators to address all of the issues covered by the mediation program of the State."

(d) REPORT.—Section 505 of such Act (7 U.S.C. 5105) is amended by striking "1990" and inserting "1998".

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 506 of such Act (7 U.S.C. 5106) is amended by striking "1995" and inserting "2000".

(f) CONFORMING AMENDMENTS.—

(1) REFERENCES TO AGRICULTURAL LOANS.—Subtitle A of title V of such Act is amended—

(A) in sections 502 and 505(1) (7 U.S.C. 5102, 5105(1)), by striking "agricultural loan" each place it appears; and

(B) in section 505(3) (7 U.S.C. 5105(3)), by striking "an agricultural loan mediation" and inserting "a mediation".

(2) WAIVER OF FARM CREDIT SYSTEM MEDIATION RIGHTS BY BORROWERS.—Section 4.14E of the Farm Credit Act of 1971 (12 U.S.C. 2202e) is amended by striking "agricultural loan".

(3) WAIVER OF FMHA MEDIATION RIGHTS BY BORROWERS.—Section 358 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006) is amended by striking "agricultural loan".

##### SEC. 802. SUCCESSORSHIP PROVISIONS RELATING TO BARGAINING UNITS AND EXCLUSIVE REPRESENTATIVES.

(a) VOLUNTARY AGREEMENT.—

(1) IN GENERAL.—If the exercise of the Secretary's authority under this Act results in changes to an existing bargaining unit that has been certified under chapter 71 of title 5, United States Code, the affected parties shall attempt to reach a voluntary agreement on a new bargaining unit and an exclusive representative for such unit.

(2) CRITERIA.—In carrying out the requirements of this subsection, the affected parties shall use criteria set forth in—

(A) sections 7103(a)(4), 7111(e), 7111(f)(1), and 7120 of title 5, United States Code, relating to determining an exclusive representative; and

(B) section 7112 of title 5, United States Code (disregarding subsections (b)(5) and (d) thereof), relating to determining appropriate units.

(b) EFFECT OF AN AGREEMENT.—

(1) IN GENERAL.—If the affected parties reach agreement on the appropriate unit and the exclusive representative for such unit under subsection (a), the Federal Labor Relations Authority shall certify the terms of such agreement,

subject to paragraph (2)(A). Nothing in this subsection shall be considered to require the holding of any hearing or election as a condition for certification.

(2) RESTRICTIONS.—

(A) CONDITIONS REQUIRING NONCERTIFICATION.—The Federal Labor Relations Authority may not certify the terms of an agreement under paragraph (1) if—

(i) it determines that any of the criteria referred to in subsection (a)(2) (disregarding section 7112(a) of title 5, United States Code) have not been met; or

(ii) after the Secretary's exercise of authority and before certification under this section, a valid election under section 7111(b) of title 5, United States Code, is held covering any employees who would be included in the unit proposed for certification.

(B) TEMPORARY WAIVER OF PROVISION THAT WOULD BAR AN ELECTION AFTER A COLLECTIVE BARGAINING AGREEMENT IS REACHED.—Nothing in section 7111(f)(3) of title 5, United States Code, shall prevent the holding of an election under section 7111(b) of such title that covers employees within a unit certified under paragraph (1), or giving effect to the results of such an election (including a decision not to be represented by any labor organization), if the election is held before the end of the 12-month period beginning on the date such unit is so certified.

(C) CLARIFICATION.—The certification of a unit under paragraph (1) shall not, for purposes of the last sentence of section 7111(b) of title 5, United States Code, or section 7111(f)(4) of such title, be treated as if it had occurred pursuant to an election.

(3) DELEGATION.—

(A) IN GENERAL.—The Federal Labor Relations Authority may delegate to any regional director (as referred to in section 7105(e) of title 5, United States Code) its authority under the preceding provisions of this subsection.

(B) REVIEW.—Any action taken by a regional director under subparagraph (A) shall be subject to review under the provisions of section 7105(f) of title 5, United States Code, in the same manner as if such action had been taken under section 7105(e) of such title, except that in the case of a decision not to certify, such review shall be required if application therefor is filed by an affected party within the time specified in such provisions.

(C) DEFINITION.—For purposes of this section, the term "affected party" means—

(1) with respect to an exercise of authority by the Secretary under this Act, any labor organization affected thereby; and

(2) the Department of Agriculture.

**SEC. 803. CONDITIONS ON IMPLEMENTATION OF ALTERATION IN LEVEL OF SELENIUM ALLOWED IN ANIMAL DIETS.**

(a) CONDITIONS.—The Food and Drug Administration shall not implement or enforce the final rule described in subsection (b) to alter the level of selenium allowed to be used as a supplement in animal diets unless the Commissioner of the Food and Drug Administration makes a determination that—

(1) selenium additives are not essential, at levels authorized in the absence of such final rule, to maintain animal nutrition and protect animal health;

(2) selenium at such levels is not safe to the animals consuming the additive;

(3) selenium at such levels is not safe to individuals consuming edible portions of animals that receive the additive;

(4) selenium at such levels does not achieve its intended effect of promoting normal growth and reproduction of livestock and poultry; and

(5) the manufacture and use of selenium at such levels cannot reasonably be controlled by

adherence to current good manufacturing practice requirements.

(b) FINAL RULE DESCRIBED.—The final rule referred to in subsection (a) is the final rule issued by the Food and Drug Administration and published in the Federal Register on September 13, 1993 (58 Fed. Reg. 47962), in which the Administration stayed 1987 amendments to the selenium food additive regulations, and any modification of such rule issued after the date of the enactment of this Act.

**SEC. 804. OFFICE OF ENVIRONMENTAL RISK ASSESSMENT.**

(a) OFFICE OF ENVIRONMENTAL RISK ASSESSMENT.—The Secretary shall establish in the Department an Office of Environmental Risk Assessment (in this section referred to as the "Office"), which shall be independent of other offices and agencies of the Department, but shall have the authority to advise such offices and agencies regarding the environmental risks addressed by Department regulations and the implementation and compliance costs associated with such regulations. The Office shall be under the direction of a Director appointed by the Secretary.

(b) STRATEGY TO ANALYZE RISKS AND BENEFITS.—The Director of the Office shall develop a strategy for performing, to the greatest extent practicable and consistent with the provisions of this section and other provisions of the law applicable to the Department, risk/benefit analyses in connection with the regulations described in subsection (c) that are performed consistently and employ state-of-the-art scientific techniques that are practicable with the resources available. The implementation of the strategy shall be subject to the approval of the Secretary.

(c) REVIEW AND CERTIFICATION OF DEPARTMENT REGULATIONS.—In connection with each proposed major regulation relating to public health, public safety, or the environment that is issued by the Department after the date on which the Secretary approves of the risk/benefit analysis strategy under subsection (b), the Director of the Office shall publish in the Federal Register—

(1) an estimate, with as much specificity as practicable, of—

(A) the risk to the health and safety of individuals that is addressed by the regulation, including the effect of the risk on human health or the environment;

(B) the costs associated with the implementation of, and compliance with, the regulation; and

(C) a comparative analysis of that risk relative to other risks to which the public is exposed; and

(2) subject to subsection (d), a certification by the Director that—

(A) the estimate under paragraph (1)(B) and the analysis under paragraph (1)(C) are based on a scientific evaluation of the risk referred to in paragraph (1)(A) and are supported by the best available scientific data;

(B) the regulation will substantially advance the purpose of protecting the public health and safety or the environment against the risk referred to in paragraph (1)(A); and

(C) the regulation will produce benefits to public health and safety or the environment that will justify the costs incurred by local, State, and Federal Government and other public and private entities as a result of the implementation of, and compliance with, the regulation, as estimated in paragraph (1)(B).

(d) REPORT TO CONGRESS OF LACK OF CERTIFICATION.—If the Director of the Office cannot make the certification required under subsection (c)(2) for a regulation, the Director shall submit to Congress a report containing a statement of the reasons why the certification cannot be made. The statement shall be included in the final regulation.

(e) EFFECT ON OTHER LAWS; JUDICIAL REVIEW.—This section, and any certification made under subsection (c), shall not be construed to amend, modify, or alter any law and shall not be subject to judicial review. This section shall not be construed to grant a cause of action to any person.

**SEC. 805. REPEAL OF SUPERSEDED PROVISIONS.**

(a) IN GENERAL.—The following provisions of law are repealed:

(1) Section 2 of Reorganization Plan No. 2 of 1953 (5 U.S.C. App; 7 U.S.C. 2201 note).

(2) Section 2 of the Act entitled "An Act to enlarge the powers and duties of the Department of Agriculture and to create an Executive Department to be known as the Department of Agriculture.", approved February 9, 1889 (7 U.S.C. 2212).

(3) The first paragraph designated "OFFICE OF THE SECRETARY:" under the heading "DEPARTMENT OF AGRICULTURE" of the Act entitled "An Act making appropriations for the Department of Agriculture for the fiscal year ending June thirtieth, nineteen hundred and seven.", approved June 30, 1906 (34 Stat. 670; 7 U.S.C. 2212).

(4) Section 604(a) of the Rural Development Act of 1972 (7 U.S.C. 2212a).

(5) Section 2 of Public Law 94-561 (7 U.S.C. 2212b).

(6) Section 8(a) of Public Law 97-325 (7 U.S.C. 2212c).

(7) Section 1413(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3128(d)).

(8) Section 306(a)(15)(C) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(15)(C)).

(9) Section 2322(d)(2) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1926-1(d)(2)).

(10) Section 364 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006f).

(b) TERMINATION OF AUTHORITY FOR ASSISTANT SECRETARIES.—Section 5315 of title 5, United States Code, is amended by striking "Assistant Secretaries of Agriculture (7)".

(c) TERMINATION OF OTHER EXECUTIVE SCHEDULE POSITIONS.—Section 5316 of title 5, United States Code, is amended—

(1) by striking "Administrator, Agricultural Marketing Service, Department of Agriculture.";

(2) by striking "Administrator, Agricultural Research Service, Department of Agriculture.";

(3) by striking "Administrator, Agricultural Stabilization and Conservation Service, Department of Agriculture.";

(4) by striking "Administrator, Farmers Home Administration.";

(5) by striking "Administrator, Foreign Agricultural Service, Department of Agriculture.";

(6) by striking "Administrator, Rural Electrification Administration, Department of Agriculture.";

(7) by striking "Administrator, Soil Conservation Service, Department of Agriculture.";

(8) by striking "Chief Forester of the Forest Service, Department of Agriculture.";

(9) by striking "Director of Science and Education, Department of Agriculture.";

(10) by striking "Administrator, Animal and Plant Health Inspection Service, Department of Agriculture."; and

(11) by striking "Administrator, Federal Grain Inspection Service, Department of Agriculture."

**SEC. 806. CONFORMING AMENDMENTS.**

(a) UNITED STATES GRAIN STANDARDS ACT.—The United States Grain Standards Act (7 U.S.C. 71 et seq.) is amended—

(1) in section 3 (7 U.S.C. 75)—

(A) by inserting "and" at the end of subsection (y);

(B) by striking subsections (z) and (aa); and

(C) by redesignating subsection (bb) as subsection (z);

(2) by striking section 3A (7 U.S.C. 75a);  
 (3) in section 5(b) (7 U.S.C. 77(b)), by striking "Service employees" and inserting "employees of the Secretary";

(4) in sections 7(j)(2) and 7A(1)(2) (7 U.S.C. 79(j)(2) and 79A(1)(2)), by striking "supervision by Service personnel of its field office personnel" both places it appears and inserting "supervision by the Secretary of the Secretary's field office personnel";

(5) in section 12(c) (7 U.S.C. 87a(c)), by striking "or Administrator";

(6) in section 12(d) (7 U.S.C. 87a(d)), by striking "or the Administrator";

(7) except as otherwise provided in this subsection, by striking "Administrator" each place it appears and inserting "Secretary"; and

(8) except as otherwise provided in this subsection, by striking "Service" each place it appears and inserting "Secretary".

(b) PACKERS AND STOCKYARDS ACT, 1921.—Section 407 of the Packers and Stockyards Act, 1921 (7 U.S.C. 228), is amended—

(1) by striking subsection (b);

(2) by redesignating subsections (c), (d), (e), and (f), as subsections (b), (c), (d), and (e), respectively; and

(3) in subsection (e) (as so redesignated), by striking "subsection (e)" and inserting "subsection (d)".

#### SEC. 807. PROPOSED CONFORMING AMENDMENTS.

Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to Congress recommended legislation containing additional technical and conforming amendments to Federal laws that are required as a result of the enactment of this Act.

The CHAIRMAN. Are there any amendments to the bill?

AMENDMENTS OFFERED BY MR. DE LA GARZA  
 Mr. DE LA GARZA. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DE LA GARZA: Strike section 801 of the bill (page 35, line 3, through page 39, line 22) relating to State mediation.

Strike section 803 of the bill (page 43, line 12, through page 44, line 17) relating to selenium levels in animal diets.

Mr. DE LA GARZA (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. DE LA GARZA. Madam Chairman, this amendment is basically technical in nature. That is the purpose of this amendment.

Mr. ROBERTS. Madam Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to my distinguished colleague, the gentleman from Kansas.

Mr. ROBERTS. Madam Chairman, I thank my chairman for yielding. The minority is in full accord with the chairman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. DE LA GARZA].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ALLARD  
 Mr. ALLARD. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ALLARD: Strike section 202 of the bill (page 14, line 9 through line 10, page 18) and insert the following new section:

#### SEC. 202. COLLOCATION OF AGENCY OFFICES.

(a) COLLOCATION OF OFFICES.—

(1) COLLOCATION.—As provided in section 104 regarding Department field offices, the Secretary shall collocate, as soon as practicable and to the maximum extent consistent with efficiency and effectiveness, the offices of the Department located at county, regional, and State levels, which carry out the functions, duties, and programs of the following existing agencies:

(A) the Agriculture Stabilization and Conservation Service;

(B) the Soil Conservation Service;

(C) the Farmers Home Administration and the Rural Development Administration;

(D) the Federal Crop Insurance Corporation; and

(E) such other agencies as the Secretary determines appropriate upon subsequent notice to the Congress of such actions.

(2) ECONOMY OF OPERATION.—The Secretary shall implement and maintain the collocation of the agencies and entities as effected by this subsection by reducing to the maximum extent administrative and overhead costs, by reducing the cost of agency personnel, equipment, computer, and telecommunications services through the sharing of their use and utilization, and by otherwise reducing duplication and utilizing other management and personnel improvement practices that will provide the efficiency and effectiveness of the individual and collective agencies that are collocated.

(3) PROHIBITION.—The Secretary shall not establish any agency, nor shall any agency be given authority, that would have single supervisory authority over the individual entities or their successors to be collocated as provided for in this subsection.

(b) JURISDICTION OVER CONSERVATION PROGRAM APPEALS.—

(1) IN GENERAL.—Until such time as an adverse decision described in this paragraph is referred to the National Appeals Division for consideration, the Agriculture Stabilization and Conservation Service shall have initial jurisdiction over any administrative appeal resulting from an adverse decision made under title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.), including an adverse decision involving technical determinations made by the Soil Conservation Service. The Agriculture Stabilization and Conservation Service may reverse an adverse decision of the Soil Conservation Service if the Agriculture Stabilization and Conservation Service finds that such decision was arbitrary and capricious.

(2) TREATMENT OF TECHNICAL DETERMINATION.—With respect to administrative appeals involving a technical determination made by the Soil Conservation Service, the Agriculture Stabilization and Conservation Service, by rule with the concurrence of the Soil Conservation Service, shall establish procedures for obtaining review by the Soil Conservation Service of the technical determinations involved. Such rules shall ensure that technical criteria established by the Soil Conservation Service shall be used by the Agriculture Stabilization and Conservation Service as the basis for any decisions regarding technical determinations.

(3) REINSTATEMENT OF PROGRAM BENEFITS.—Rules issued to carry out this subsection shall provide for the prompt reinstatement of benefits to a producer who is determined

in an administrative appeal to meet the requirements of title XII of the Food Security Act of 1985 applicable to the producer.

(4) DEFINITION.—For purposes of this subsection, the term "Soil Conservation Service" includes any successor agency to the Soil Conservation Service.

(a) CROP INSURANCE.—The Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) is amended in section 505(a) (7 U.S.C. 1505(a)), by striking "the Under Secretary or Assistant Secretary of Agriculture responsible for the farm credit programs of the Department of Agriculture," and inserting "one additional Under Secretary of Agriculture as designated by the Secretary".

Page 20, beginning line 7, strike "and in considering administrative appeals under the jurisdiction of the Agricultural Service Agency, as provided by section 202(c) of the Department of Agriculture Reorganization Act of 1994" and insert "and in considering administrative appeals under the jurisdiction of an agency of the Department of Agriculture described in section 202(a)(1) of the Department of Agriculture Reorganization Act of 1994".

Page 30, beginning line 4, strike "(except to the extent those functions and duties are delegated to the Agricultural Service Agency under section 202)" and insert "(except to the extent jurisdiction over conservation program appeals are assigned to the Agriculture Stabilization and Conservation Service under section 202(b))".

Mr. ALLARD (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. ALLARD. Madam Chairman, despite the yeomanlike job of Congressman STENHOLM, the chairman of the subcommittee that initiated the reorganization of the Department of Agriculture, and the leadership of Mr. DE LA GARZA, chairman of the full committee, H.R. 3171 remains flawed. The stated purpose behind USDA reorganization has not been met, that is to save taxpayers money and to provide better services to USDA's clients. No portion of H.R. 3171 better illustrates its deficiencies than the creation of the Agricultural Service Agency [ASA], which combines the Farmers Home Administration, the Agriculture Stabilization and Conservation Service, and the Federal Crop Insurance Corporation, into one new super bureaucracy. While the ASA is supposed to reorganize and streamline operations at USDA headquarters in Washington, and in field offices across the Nation, it creates more problems than it solves.

Among the many problems this new super bureaucracy presents is that it merges Federal and non-Federal employees under one agency. In the States ASCS employees administer the Farm Commodity Programs. They serve a county committee that has been elected by farmers, they are not Federal employees. By merging them into one agency with Federal employees we are setting the stage for big

problems in the future, such as, how will future reductions in force at USDA work when certain employees will have retention rights, based on serving in the Federal service, and others will not? And when new employees are hired will they be hired through the local system or through the Federal hiring process? Also, since it is illegal for non-Federal employees to supervise Federal employees, what check does the administration have in mind to avoid this problem? I think the answer to these questions is that the administration is going to Federalize local ASCS employees, a solution that will not serve agriculture producers and would actually add to the Federal work force. Furthermore, this new bureaucracy will not reduce the number of people required to run these programs, the agencies they are merging have different responsibilities, one is responsible for credit programs, one for an insurance program, another for commodity programs. It is not possible for one person to have working knowledge of all these programs.

The amendment I am offering will eliminate this new bureaucracy, maintaining the current structure, while mandating the Secretary of Agriculture close and collocate USDA field offices so that our farmers can go to one office for the services they need, making the field office structure more efficient and saving the taxpayer over \$700 million.

The final portion of this amendment follows closely on an action taken by Mr. STENHOLM in committee. In committee Mr. STENHOLM allowed the farmer elected county committee more oversight on environmental decisions that have an impact on farmers. This amendment would give the county committee further authority over environmental decisions that they determine are arbitrary or capricious.

I urge a "yes" vote on the Allard amendment. It will save taxpayers money and serve the clients of USDA better than what has been proposed in this legislation.

Mr. STENHOLM. Madam Chairman, I move to strike the last word.

Madam Chairman, I rise in again somewhat reluctant but very strong opposition to the gentleman's amendment. This is a discussion that we carried on in subcommittee and in full committee, and the results of four hearings in Washington and eight hearings in our various States that prompted us to make the recommendation that we truly do move to one-stop shopping. This amendment would gut that.

Basically what the gentleman from Colorado is saying is the status quo is OK, we should not make any changes to the current structure, that somehow, some way we can achieve all of the goals. I readily agree on what he says about the savings, the majority of

which occur from the consolidation of offices, but there is also a savings that will be reached in the long term, I believe very strongly, in the long term by forcing a change in the manner in which we administer and supervise and man various farm programs at the local level.

To do that we are going to have to make some changes in the status quo. That is the only reason basically that we are here today.

I know there are some who would suggest we really do not have to change anything, that we can just fine tune this and fine tune that. But how quickly we forget the problems we saw in the agricultural appropriation bill last week. If we do not believe that was a serious problem, wait until next year and the year after that as we have to make tough decisions in prioritization, and where we are going to spend our scarce dollars in the agricultural function.

I know the gentleman is well meaning. He can make a good argument. It resonates good with a lot of people. But in my opinion, if his amendment should pass today, as we stated in the full committee, it will really gut the intent of this reorganization effort, and it will gut the intent of a large number of our employees and others out there who have given their best shot in seeing that we in this case, when we do reorganize, that we give the department the tools to get on with doing the job.

So I would strongly encourage all of our colleagues to oppose this amendment, stay with the committee bill in its current form. Many of the desired results can only be achieved by us biting some tough bullets today.

Mr. SMITH of Oregon. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, this has been a difficult discussion we have had on this whole issue of reorganization of the USDA. As our chairman, the gentleman from Texas [Mr. STENHOLM], has indicated, we do have a difference of opinion, not about reorganization of the department because we all agree to that, but how to do that so that it is farmer friendly.

□ 1500

I think those of us from agricultural areas around this country have that one prerequisite in mind, and that is how do we do this so it is farmer friendly, it can be efficient, and it can save money, and the amendment offered by the gentleman from Colorado [Mr. ALLARD] certainly gets to that issue, as far as I am concerned. It does so in several ways.

First of all, the committee bill establishes a broad new bureaucracy called the Agricultural Service Agency, and while doing that, it leaves out a very important function, and that is the Soil Conservation Service. It seems to

me, and to a lot of us, if, indeed, we are going to reorganize the Agriculture Department into a broad new agency which is going to cost a lot of money, by the way, we ought to have all of the agricultural services within it. So in that manner, the amendment offered by the gentleman from Colorado [Mr. ALLARD] says simply this, let us save the money we all agree by collocating offices that will be saved, and let us allow our farmer-elected committees to continue to serve in their manner advising the USDA and officials about the best way to take care of these farm programs on the ground.

Now, beyond that, there is this question about how we satisfy the environmentalists. Supposedly the environmentalists want us to create this new service agency but leaving the Soil Conservation Service out on its own to be probably directed by some official in Washington, DC; as to their attempts, we call it the new EPA for agriculture, their attempts to determine what may occur on the ground for agriculture through the Soil Conservation Service. That would be a horrible thing to occur in farm country, and I do not think farmers want it, and certainly I do not want it either.

So rather than the status quo, the Allard amendment is not so. We want reorganization. We want collocation of offices. We do not want to be subservient to some environmental organization in Washington, DC, that directs the Soil Conservation Service to implement their programs in farm country. We do not want that.

Therefore, the Allard amendment is certainly the best alternative. Without that, this bill is not farmer friendly and ought not to be supported.

Mr. EWING. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise in support of the Allard amendment.

We have, indeed, spent a lot of time talking about reorganization, and in most of those conversations, we get down to the bottom line that it is needed so that we can save funds that have been projected to be saved through reorganization for other uses.

The Allard amendment will save most of the funds that are projected to be saved by the reorganization of USDA, and it will avoid a number of other problems, for instance, the problems of commingling Federal employees with non-Federal employees.

The way it operates, ladies and gentlemen, out in the country now for the ASCS office, if you have employees that are not needed, they can be let off; they can be put on part time. If we make them all Federal employees, you lose that flexibility. Then we are going to hire people, they are going to be there whether there is work or not, and in the ASCS offices out in the country, there are busy times and there are down times.

If we want to save money, we would not be doing this. Actually the operation of these different offices is working well now.

To reorganize it into a new super-agency, I think, will lead to more bureaucracy and less direct service to the farmers.

I am also very concerned about the creation of the Natural Resource Conservation Service out of the Soil and Water Conservation Service. I do not want an EPA out there. I want a Soil and Water Conservation Service that is friendly to American agriculture, and we are making great headway.

For those reasons, I support the Allard amendment and would ask my colleagues to do the same.

Mr. DE LA GARZA. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, let me state that the collocation, there is a lot of confusion, but collocation as it is being used now by USDA means that all of the different offices of USDA would be put in one location, in one building, and that is already being done in my home county. The USDA offices are collocated, and farmers come to one specific spot, and all of the agencies are there. The bill does that.

The argument here is that we should not have a consolidation of some of the programs, and basically this amendment will undo the thrust of the bill basically, but there is a reason for separation of a highly technical area.

And my colleagues who just spoke, all that we do on the Soil Conservation is change the name. It does not do any basic change, but the important thing is that we are moving to collocation. That is where the savings are going to be. That is where the savings are, and the service to farmers, and not necessarily to the farmers, because the Soil Conservation Service works in the countryside with different owners of different lands, and as I mentioned in the beginning, and I repeat it now, what a farmer needs besides being a good farmer is he needs good soil, he needs good water, and he needs clean air.

This is the area where historically the Soil Conservation has worked, and they have technical expertise that cannot be merged with book and/or desk-type operations like the ASCS office, although the ASCS office goes and measures farms and acreage, some with Soil Conservation figures, and in cooperation with, and if you have them side by side, collocated, then you would have fulfilled the desire to streamline. You would have a more efficient operation to have the farmers come to one location.

I would urge my colleagues to vote no on this amendment, because otherwise, the thrust of this legislation would fall by the wayside.

Mr. SMITH of Michigan. Madam Chairman, I move to strike the last word.

Madam Chairman, I still consider myself a farmer, so I want you to take my ideas with a grain of salt and use them to suit your taste.

This amendment, the Allard amendment, improves the bill for a couple of reasons. First, the 10,000-plus ASCS employees are not technically Federal employees. The reason that we have made this provision in law distinguishing a difference between Federal Government employees and ASCS employees is so that the county committee system and that county executive director have greater latitude to hire, change job descriptions, and discharge these individuals as opposed to the more complicated process through Civil Service. Once we comingle these individuals with other Federal employees as provided in the original legislation, it moves us in the direction of designating ASCS employees as Federal employees. If you look on page 9, section 104 says that you are going to use common administrative personnel, you are going to use common receptionists, you are going to use employees of ASCS, FCIC, and FmHA interchangeably to gain the efficiency the sponsors of the bill envision. So the danger is to lose the flexibility that has traditionally been a benefit within our State and county ASCS system.

Let me just conclude by saying I see a danger in Congress trying to direct the administration to be more efficient. Our goal is to increase efficiency, but, ladies and gentlemen, there are counties out there, and there are multicounty units for ASCS and SCS and the Federal Crop Insurance and FmHA that are going to be disrupted and are going to lose efficiency by a mandate of either collocation or consolidation.

The reason I am going to vote against this legislation is because of those inefficiencies that are going to result from Congress' attempt to mandate administrative efficiency rather than give the Secretary the authority that he or she needs to make these kinds of changes. The Secretary should not be saddled with a one-size-fits-all mandate. It's not going to work out.

With the Allard amendment that mandates that field offices be collocated or with the original language of the bill, where we mandate that they be combined into a single agency, we are going to disrupt some of the efficient operations in some parts of this country. In some of those agricultural communities we are going to end up with less efficient operations and poorer service to farmers. We will be coming back to Congress to make changes in this bill to gain what we ultimately are trying to achieve.

Mr. STENHOLM. Madam Chairman, will the gentleman yield?

Mr. SMITH of Michigan. I am happy to yield to the gentleman from Texas.

Mr. STENHOLM. Madam Chairman, I thank the gentleman for yielding to

me, and I say that I am one Member who truly appreciates the experience that you bring to this floor.

□ 1510

The gentleman knows a lot of what he is speaking about in this instance. The concerns that he brings up we have tried to address in the bill itself regarding the supervision by non-Federal employees of Federal employees and we believe that there is a general concurrence that may occur except in instances where hiring and firing and other instances in which you are protected under Civil Service law.

I do not believe for a moment that this bill today, if we pass it, will create a major hindrance for the county elected committee system. Were I as convinced of that as apparently the gentleman is, I would be arguing with him. The important thing, though, that I think we have to establish here when we talk about there are no savings to be accrued—it seems to me in all of these deliberations that if we can more efficiently utilize personnel by having an FSA concept whereby we have one manager of an office who can direct how the various employees shall spend their time, whether they be in Farmers Home, whether they be FCIC, whatever that end up being in FSA, whether it be AFCS, wherever it, but there has to be one boss. Why I said respectfully to the gentleman from Colorado [Mr. ALLARD] in opposing his amendment, it is absolutely critical that we are able to gain efficiencies other than closing offices. We may have one office open somewhere under the gentleman's amendment in which the personnel will be utilized 50 percent. We may have another office open somewhere under his amendment in which the personnel will be utilized 120 percent. That seems to be intolerable in consideration of the goals we are trying to pursue.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. SMITH] has expired.

(By unanimous consent, Mr. SMITH of Michigan was allowed to proceed for 1 additional minute.)

Mr. SMITH of Michigan. Madam Chairman, I have tremendous respect for the gentleman from Texas. I appreciate his comments. He is well respected in my congressional district in the agricultural community. However, we do have some counties in Michigan that use, for example, one agency very little but have a very high use of some of the other agencies. So where we demand consolidation come hell or high water, we may in some areas in some counties cause greater inefficiency rather than the efficiencies we desire.

Mr. ROBERTS. Madam Chairman, I move to strike the requisite number of words, and I rise in support of the amendment introduced by the gentleman from Colorado [Mr. ALLARD].

Madam Chairman, this is not fine-tuning with what we are about; this is

a major colocation effort, saving \$2.5 billion in an effort, that whatever we do in regards to reorganization, it should be primarily farmer-friendly. If it is farmer-friendly, we achieve the other goals of the legislation.

In other words, the Allard amendment gives the taxpayers what they want and farmers what they want. That is, less expensive government services. In regards to the farmer, they want user-friendly services. The Allard amendment retains the logical—let me emphasize the word logical—field-based agencies while mandating they be located in order to achieve the budgetary savings that we all want. It also provides the farmer one-stop shopping. And obviously that is what we want. And it accomplishes this without really creating what can be, and I predict will be, a personnel nightmare caused by this bill.

Without the Allard amendment, we have what is called now a new super-agency or what some of us are worried about, a superbureaucracy, it is called the ASA, Agriculture Service Agency. In doing that, we merge the field structure of Farmers Home and Federal Crop Insurance program, ASCS, the Agricultural Conservation and Stabilization Service, but we leave a fourth field agency in a separate pasture, that is, the environmental pasture. The Soil Conservation Service is renamed and it now stands alone.

This is unnecessary to achieve the budget savings in field office restructuring. I do not know how many times we have to say that. The Secretary can do that, 80 to 90 percent of his effort, all by himself. All of the savings associated with this legislation derive from the closure and consolidation of the USDA field offices. And as I have said before, the Secretary of Agriculture enjoys that authority.

What the Allard amendment does is it maintains the existing technical expertise of the four field-based USDA agencies. They are all separate, they all have different expertise. Since each of the agencies perform entirely different functions, it would be one thing if you have one boss under four separate agencies with very similar functions. They are not. They have different sets of policies and procedures and also regulations. It just makes sense to hold on to their separate identities.

Finally, the Allard amendment will avoid the personnel, again I say, possible disaster that will be created by this bill when you blend the non-Federal, get this now, blend the non-Federal ASCS employees with Farmers Home Federal employees in joint retention rights, creating management nightmares. Who gets promoted? How does the boss settle on that one?

Language in this bill to mitigate the adverse impact, while well-intentioned, I think is very inadequate and perhaps

could even confuse the matters worse. The Allard amendment can eliminate this conflict altogether. I understand what the proponents of this bill want. They want greater environmental emphasis. I want greater environmental emphasis but emphasis that works with producers and not a stand-alone agency which could present some real problems down the road. We have an honest difference of opinion about this. Goodness knows, I understand an administration that wants their name in lights in regard to the ASA. Throughout this whole business for the last 5 or 10 years we have had people in both the House and the Senate purging the USDA like it is some water buffalo out of some past history book that is no longer useful. That is not correct. Much of the criticism in regard to the USDA is not factual. We have people down there doing an excellent job under very difficult circumstances.

I understand any administration that wants to come in brand new and reform and change, but change for the sake of change does not work out a lot of the time. I do not see any need to change the stationery and the name on the door and go through all of this when we have separate agencies doing an outstanding job on behalf of the consumer, the taxpayer and the farmer. The Allard amendment allows us to continue to save money; it continues the march in regard to the USDA doing a good job and makes it better. I urge my colleagues to vote "yes."

Mr. DE LA GARZA. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I do so in order to say that this amendment was introduced by Mr. ROBERTS, or almost the text of this amendment, in the committee, and it was defeated in the committee.

Yes, there is some philosophical disagreement, I guess, amongst us, but the fact is nonetheless that this bill as we are considering now does save money. It does provide for streamlining. We are already in the process of collocating to save money, and there are areas where you need to consolidate and streamline. This bill does that.

All of the work that we have done through the months and maybe years now would be undone by this amendment. This amendment will just keep the status quo. The status quo is not acceptable any more.

Yesterday there was a group outside here, in front of the Capitol, with 10 items that they want to change because they do not want the status quo. Some of those areas I might even agree with.

So, the fact now is, and the issue now is, do we want streamlining, do we want to enhance USDA operations to where Mr. Lincoln wanted it 100-some years ago? Or, if you vote for this

amendment, then you will undo, you keep the status quo as it is. This is a bill for change. This is a time for change. Everyone around this Hill is clamoring for change.

□ 1520

So, Madam Chairman, a "no" vote on this amendment is a vote for change, for better change, and streamlining the Department of Agriculture.

Mr. ROBERTS. Madam Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Kansas.

Mr. ROBERTS. Is the gentleman suggesting this is point 11 in the contract with America? Is the gentleman suggesting that the Espy plan for reorganization is point 11 in the Republican contract with America?

Mr. DE LA GARZA. I do not know that it is. I have not been able to find out who the Mr. Gillespie is that is putting out the press releases.

Mr. ROBERTS. Is the gentleman talking about Mr. Gillespie or Mr. Espy?

Mr. DE LA GARZA. Gillespie.

Mr. ROBERTS. Gillespie.

Mr. DE LA GARZA. That is what I read about this contract thing, but this may not be the time or the place to discuss this issue.

Mr. ROBERTS. I say to the gentleman, I think that's probably a very wise comment, Mr. Chairman.

Mr. DE LA GARZA. I am still looking for Mr. Gillespie.

Mr. ALLARD. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I would just like to make a few comments in summary. In my view this does eliminate a new bureaucracy that was created by the legislation that has just come to the floor. What it does also is that it allows for, provides, the collocation of offices, and that is where the real savings are; that is, collocation. That is \$700 million of realized savings actually that is in this effort to bring everything together in "one-stop shopping," and it is something that has been recognized by both sides, how important it is that we have central office there where it serves the farmer, where it is convenient for the farmer. This amendment maintains that. What it does, Madam Chairman, it takes away this new bureaucratic level that is created through the legislation.

I am asking for a "yes" vote on the Allard amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado [Mr. ALLARD].

The question was taken; and the chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ALLARD. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 177, noes 247, not voting 15, as follows:

[Roll No. 445]

AYES—177

Allard	Gilman	Molinari
Archer	Gingrich	Moorhead
Armey	Goodlatte	Myers
Bachus (AL)	Goodling	Nussle
Baker (CA)	Orton	Oxley
Baker (LA)	Grams	Packard
Ballenger	Greenwood	Paxon
Barrett (NE)	Gunderson	Petri
Bartlett	Hancock	Pombo
Barton	Hansen	Porter
Bateman	Hastert	Portman
Bentley	Hefley	Pryce (OH)
Bereuter	Herger	Quillen
Bilirakis	Hobson	Quinn
Bliley	Hoekstra	Quinn
Blute	Hoke	Ramstad
Boehert	Horn	Ravenel
Boehner	Houghton	Regula
Bonilla	Huffington	Ridge
Bunning	Hunter	Roberts
Burton	Hutchinson	Rogers
Buyer	Hyde	Rohrabacher
Callahan	Inglis	Ros-Lehtinen
Calvert	Istook	Roth
Camp	Johnson (CT)	Roukema
Canady	Johnson, Sam	Royce
Carr	Kasich	Santorum
Castle	Kim	Saxton
Clinger	King	Schaefer
Coble	Kingston	Schiff
Collins (GA)	Klug	Sensenbrenner
Combest	Knollenberg	Shaw
Cooper	Kolbe	Shepherd
Cox	Kyl	Shuster
Crane	LaFalce	Skeen
Crapo	Lazio	Smith (MI)
Cunningham	Leach	Smith (NJ)
DeLay	Levy	Smith (OR)
Diaz-Balart	Lewis (CA)	Smith (TX)
Dickey	Lewis (FL)	Solomon
Doolittle	Lewis (KY)	Spence
Dornan	Lightfoot	Stearns
Dreier	Linder	Stump
Duncan	Livingston	Talent
Dunn	Lucas	Tanner
Ehlers	Machtley	Taylor (NC)
Emerson	Manzullo	Thomas (CA)
Everett	McCandless	Thomas (WY)
Ewing	McCollum	Torkildsen
Fawell	McCrery	Upton
Fields (TX)	McDade	Vucanovich
Fish	McHugh	Walker
Fowler	McInnis	Walsh
Franks (CT)	McKeon	Weldon
Franks (NJ)	McMillan	Wolf
Gallely	Meyers	Young (AK)
Gekas	Mica	Young (FL)
Gilchrest	Michel	Zeliff
Gillmor	Miller (FL)	Zimmer

NOES—247

Abercrombie	Byrne	Dicks
Ackerman	Cantwell	Dingell
Andrews (ME)	Cardin	Dixon
Andrews (NJ)	Chapman	Dooley
Andrews (TX)	Clay	Durbin
Bacchus (FL)	Clayton	Edwards (CA)
Baesler	Clement	Edwards (TX)
Barca	Clyburn	Engel
Barcia	Coleman	English
Barlow	Collins (IL)	Eshoo
Barrett (WI)	Collins (MI)	Evans
Becerra	Condit	Faleomavaega
Beilenson	Conyers	(AS)
Berman	Coppersmith	Farr
Bevill	Costello	Fazio
Bilbray	Coyne	Fields (LA)
Bishop	Cramer	Filner
Blackwell	Danner	Fingerhut
Bonior	Darden	Flake
Borski	de la Garza	Foglietta
Boucher	de Lugo (VI)	Ford (TN)
Brewster	Deal	Frank (MA)
Browder	DeFazio	Frost
Brown (CA)	DeLauro	Furse
Brown (FL)	Dellums	Gejdenson
Brown (OH)	Derrick	Gephardt
Bryant	Deutsch	Geren

Gibbons	Mazzoli	Sabo
Glickman	McCloskey	Sanders
Gonzalez	McCurdy	Sarpalius
Gordon	McDermott	Sawyer
Green	McHale	Schenck
Gutierrez	McKinney	Schroeder
Hall (OH)	Meehan	Schumer
Hall (TX)	Meek	Scott
Hamburg	Menendez	Serrano
Hamilton	Mfume	Sharp
Harman	Miller (CA)	Shays
Hastings	Mineta	Sisisky
Hayes	Minge	Skaaggs
Hefner	Mink	Skelton
Hilliard	Moakley	Slaughter
Hinchee	Mollohan	Smith (IA)
Hoagland	Montgomery	Snowe
Hochbrueckner	Moran	Spratt
Holden	Morella	Stark
Hoyer	Murphy	Stenholm
Hughes	Murtha	Stokes
Hutto	Nadler	Strickland
Inslee	Neal (MA)	Studds
Jacobs	Neal (NC)	Stupak
Jefferson	Norton (DC)	Swett
Johnson (GA)	Oberstar	Swift
Johnson (SD)	Obey	Synar
Johnson, E. B.	Olver	Tauzin
Kanjorski	Ortiz	Taylor (MS)
Kaptur	Owens	Tejeda
Kennedy	Pallone	Thompson
Kennelly	Parker	Thornton
Kildee	Pastor	Thurman
Kleczka	Payne (NJ)	Torres
Klein	Payne (VA)	Torrice
Klink	Pelosi	Towns
Kopetski	Penny	Trafficant
Kreidler	Peterson (FL)	Tucker
Lambert	Peterson (MN)	Unsoeld
Lancaster	Pickett	Valentine
Lantos	Pickle	Velazquez
LaRocco	Pomeroy	Vento
Laughlin	Poshard	Vislosky
Lehman	Price (NC)	Volkmer
Levin	Rahall	Waters
Lewis (GA)	Rangel	Watt
Lipinski	Reed	Waxman
Long	Reynolds	Whitten
Lowe	Richardson	Williams
Maloney	Roemer	Wilson
Mann	Romero-Barcelo	Wise
Manton	(PR)	Woolsey
Margolies-	Rose	Wyden
Mezvinsky	Rostenkowski	Wynn
Markey	Rowland	Yates
Martinez	Roybal-Allard	
Matsui	Rush	

NOT VOTING—15

Applegate	Inhofe	Slattery
Brooks	Johnston	Sundquist
Ford (MI)	Lloyd	Underwood (GU)
Gallo	McNulty	Washington
Grandy	Sangmeister	Wheat

□ 1543

Mr. OWENS and Mr. NEAL of Massachusetts changed their vote from "aye" to "no."

Ms. ROUKEMA changed her vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. WYDEN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to commend the gentleman from Texas for this work in this area and raise with him an additional problem that my staff and I have uncovered. My staff and I have uncovered a variety of problems relating to whistleblower protection at the Department of Agriculture.

For example, we have come across instances where Forest Service employees who expose timber theft by contractors were the subject of retaliation by their supervisors. Specifically, we

have been concerned about the prospect that they would be subjected to various forms of harassment.

We have also been concerned, in addition to the protections for employees who uncover timber theft, about the matter of non-Federal employees who blow the whistle, for example, with respect to violations of sanitary practices in restaurants and meat packing.

I had intended to offer an amendment to this bill to address this need and further protect whistleblowers, but I have understood, after some discussions with the distinguished chairman from Texas, that he would prefer that this matter be dealt with in the farm bill.

I am anxious to work with the gentleman and would ask him whether he would be willing to address the need for stronger whistleblower protection in the farm bill that he will be tackling next year.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. WYDEN. I yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Chairman, I appreciate the concerns of the gentleman on the issue of protecting so-called whistleblowers. We appreciate his interest, appreciate his going into this area, and we will be happy to work with the gentleman.

Unfortunately, this is not the time or the area where we can address fully this issue, but the gentleman has a commitment from me and from the committee that we will work with him, that we will address this issue fully and hopefully to his satisfaction.

Mr. WYDEN. Mr. Chairman, I thank the gentleman. My concern is, in these tight budgetary times, to take the steps that we need to protect the public, particularly in the area of health and safety practices, we need these whistleblower protections. I look forward to working with the chairman as we tackle the farm bill.

The Wyden amendment would have strengthened the protections contained in the Whistleblower Protection Act for Federal Government employees who expose wrongdoing involving the U.S. Department of Agriculture. The amendment also protects employees of private sector businesses and other persons who help to expose improper activities involving the Department of Agriculture against discharge and other forms of retaliation. Specifically, the amendment prohibits discharge, discipline, harassment and discrimination against employees and other persons because that person commences or participates in a proceeding arising out of Department of Agriculture functions or responsibilities. The language of the amendment is as follows:

AMENDMENT TO H.R. 3171, AS REPORTED,  
OFFERED BY MR. WYDEN OF OREGON

Page 47, after line 15, add the following new section (and redesignate subsequent sections accordingly):

**SEC. 805. WHISTLEBLOWER PROTECTION.**

(a) PROHIBITIONS.—A person may not discharge, discipline, harass, or discriminate against an employee or other person because the employee or other person—

(1) commences, causes to be commenced, or is about to commence a proceeding arising out of any function or responsibility of an agency, office, or unit of the Department of Agriculture;

(2) testifies or is about to testify at such a proceeding; or

(3) assists, participates in, or is about to assist or participate in any manner in such a proceeding or in any other action to carry out any function or responsibility of an agency office, or unit of the Department of Agriculture.

(b) IDENTIFICATION AND TREATMENT OF VIOLATIONS.—Subject to subsection (c) of this section, subsections (b), (c), and (d) of section 31105 of title 49, United States Code, shall apply with respect to the filing of a complaint alleging a violation of subsection (a) and the handling of such a complaint.

(c) BURDEN OF PROOF.—If the complainant establishes by a preponderance of the evidence that an activity protected by subsection (a) was a contributing factor in the alleged prohibited discharge, discipline, harassment, or discrimination, the burden of proof in the hearing shall be on the adverse party to prove by clear and convincing evidence that the alleged discharge, discipline, harassment, or discrimination would have occurred for legitimate, independent reasons even if the complainant had not engaged in an activity protected by subsection (a).

□ 1550

Mrs. BENTLEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, today I planned to offer an amendment that would have prohibited foreign-owned grain traders from participating in USDA's export programs. I also planned to offer an amendment requiring foreign-flag ships carrying U.S. Government cargoes to comply with American labor standards. After consulting with the Parliamentarian about the germaneness of these amendments, and after discussing them with my good friends on the Agriculture Committee, I have decided to withdraw both amendments.

While I have long supported USDA's export promotion efforts, the time has come for us to end the abuses in the export programs in order to preserve their intended mission. This mission is to help America's family farmers. Perhaps the most outrageous abuse is the siphoning off of hundreds of millions of dollars per year in export subsidies by foreign-owned grain traders.

The New York Times discovered last year that while USDA's regulations require that grain traders incorporate in the United States and maintain a presence here, some are little more than mail drops. For example, CAM U.S.A., a subsidiary of a Paris-based company, brokered \$500 million in USDA-subsidized farm products out of a Greenwich, CT, office that was so small that it did not even have a published telephone number. CAM has also received \$250 million in so-called bonuses under USDA's EEP program.

Other foreign-owned grain traders have benefited from huge EEP bonuses. These include Louis Dreyfuss Corp. of France, which has received \$915 million since the inception of the program, Garnac Grain of Switzerland, which has received \$175 million, and two subsidiaries owned by the Ferruzzi family of Italy, which have received almost \$400 million.

Some say that grain traders are mere middlemen and that the programs are working so long as U.S. agricultural products are exported. They are wrong. In this post-cold-war era, every dollar spent by the Government on the promotion of exports should be received by an American citizen. There is no shortage of American-owned grain traders. Our American traders and American farmers should receive the benefit of brokering the sale of American agricultural commodities. Foreign grain traders should not be permitted to siphon off any portion of U.S. agricultural export subsidies.

I understand that others in the agricultural community share my concerns. At a time of enormous trade deficits, we need to ask if EEP is benefiting American farmers or foreign corporations. I believe that when American farmers see that Mitsubishi International and other foreign companies have received billions in Government bonuses, while grain prices are still low, American farmers will be justified in being angry at the administration of this program.

As all of you know, I have been a strong supporter of the American merchant marine. All too often the debate over our programs has been shaped as agriculture versus maritime. This is wrong. What we need is for American farmers and the American merchant marine to end the battle and do what's best for all Americans.

We will not solve this problem today. The problems of foreign participation in USDA agriculture programs will be debated during the 1995 farm bill. I also hope that Congress will consider why USDA allows substandard, foreign-flag-of-convenience ships to carry Government food aid abroad. These ships do not meet any of our labor, safety, environmental, and tax regulations.

It behooves those of us who support American agriculture and American maritime to work together to preserve the programs that promote both industries. If we do not, neither industry will prosper.

On this note, I will conclude my statement and withdraw the amendments.

Mr. Chairman, I include for the RECORD an explanation of the amendment referred to.

**EXPLANATION OF AMENDMENT**

The amendment would require that participants in USDA's export promotion programs be U.S. citizens. Participants include exporters, exporters of record, assignees, and sellers.

The U.S. citizen requirement, however, would not apply to foreign purchasers and users.

Three principal USDA programs would be affected—

(1) *Export Enhancement Program (EEP)*—under this program authorized by section 301 of the Agricultural Trade Act of 1978, as amended (7 U.S.C. §5651), USDA pays bonuses to grain traders so that the grain traders can export wheat and other U.S. agricultural commodities at prices that are competitive with heavily subsidized foreign, particularly European Union, prices. Since the inception of EEP in 1985, USDA has paid over \$6.8 billion in cash and commodity bonuses.

(2) *Direct Credit Sales (e.g., GSM-5)*—under this program authorized by section 201 of the Agricultural Trade Act of 1978, as amended (7 U.S.C. §5621), USDA provides below-market-rate loans to foreign grain purchasers that would have difficulty finding financing from commercial banks. The USDA has not used this program since 1985.

(3) *Credit Guarantees (GSM-102 and GSM-103)*—under these programs authorized by section 202 of the Agricultural Trade Act of 1978, as amended (7 U.S.C. §5622), USDA guarantees the financing of close-to-market-rate loans to foreign purchasers that would be unable to obtain commercial financing without the guarantees. The GSM-102 program provides loan guarantees for terms of up to three years, and the GSM-103 program provides loan guarantees for terms of three to ten years. The GSM-102 program was used to provide \$5.75 billion in loan guarantees to the Soviet Union and Russia. Russia defaulted on its GSM loans in 1992 and 1993, forcing USDA to pay more than \$1 billion to the lender banks.

**AMENDMENTS**

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3171

By Mrs. BENTLEY:

At the appropriate point in the bill after Section 803 add a new Section 804 as follows and renumber subsequent sections;

**SEC. 804. TRADE AMERICAN GRAIN ACT OF 1994**

Section 401 of the Agricultural Trade Act of 1978 (7 U.S.C. 5661) is amended by adding a new subsection at the end thereof:

"(d) CITIZENSHIP REQUIREMENTS.—Exporters, exporters of record, assignees, sellers, processors and other participants in the program, except for purchasers and users, must be a United States citizen.

"(1) DEFINITION OF UNITED STATES CITIZEN.—For purposes of this section, "United States citizen" shall mean either a natural person who is a citizen of the United States or a corporation, partnership, or association, whose controlling interest therein is owned by citizens of the United States, and in the case of a corporation, meets also the following requirements:

"(A) president or other chief executive officer is a United States citizen;

"(B) the chairman of its board of directors is a United States citizen;

"(C) a majority of the members of the board of directors are United States citizens; and

"(D) the corporation is organized under the laws of the United States or of a State, Territory, District, or possession thereof.

"(2) DEFINITION OF CONTROLLING INTEREST.—For purposes of this section, "controlling interest" shall not be deemed to be owned by citizens of the United States (A) if the title to a majority of the stock thereof is

not vested in such citizens free from any trust or fiduciary obligation in favor of any person not a citizen of the United States; or (B) if the majority of the voting power in such corporation is not vested in citizens of the United States; or (C) if through any contract or understanding it is so arranged that the majority of the voting power may be exercised, directly or indirectly, in behalf of any person who is not a citizen of the United States; or (D) if by any other means whatsoever control of the corporation is conferred upon or permitted to be exercised by any person who is not a citizen of the United States."

At the end of the bill add the new section:  
**SEC. . COVERAGE OF FOREIGN VESSELS UNDER FEDERAL LABOR LAWS.**

(a) NATIONAL LABOR RELATIONS.—Section 2(2) of the National Labor Relations Act (29 U.S.C. 152(2)) is amended—

(1) by inserting "(A)" after the paragraph designation; and

(2) by adding at the end thereof the following new subparagraph:

"(B)(i) The term 'employer' also includes a foreign documented vessel engaged in transporting government-financed cargoes of agricultural commodities.

"(ii) For purposes of this section, such term shall not include any foreign documented vessel that can demonstrate—

"(I) that at least 50 percent of its crew is composed of citizens of the country of registry; and

"(II) that legal title to such vessel is held by citizens of the country of registry, and beneficial ownership and control, direct or indirect, are held by citizens of the country of registry.

"(iii) As used in this subparagraph, the term 'citizen' shall include—

"(I) natural persons who are citizens of the country of registry;

"(II) a corporation, if its entity is at least 51 percent owned and controlled by citizens of the country of registry;

"(III) a partnership, if all the general partners are citizens of the country of registry and at least 51 percent of the partnership is owned and controlled by citizens of the country of registry."

(b) FAIR LABOR STANDARDS ACT OF 1938.—

(1) DEFINITION.—Section 3(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(d)) is amended—

(A) by inserting "(1)" after the subsection designation; and

(B) by adding at the end thereof the following new paragraph:

"(2)(A) The term 'employer' also includes a foreign documented vessel engaged in transporting government-financed cargoes of agricultural commodities.

"(B) For purposes of this section, such term shall not include foreign documented vessel that can demonstrate—

"(i) that at least 50 percent of its crew is composed of citizens of the country of registry; and

"(ii) that legal title to such vessel is held by citizens of the country of registry, and beneficial ownership and control, direct or indirect, are held by citizens of the country of registry.

"(C) As used in this paragraph, the term 'citizen' shall include—

"(i) natural persons who are citizens of the country of registry;

"(ii) a corporation, if its entity is at least 51 percent owned and controlled by citizens of the country of registry;

"(iii) a partnership, if all the general partners are citizens of the country of registry

and at least 51 percent of the partnership is owned and controlled by citizens of the country of registry."

(2) MINIMUM WAGE.—Section 6(a)(4) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(4)) is amended by inserting "or a foreign documented vessel described in section 3(d)(2)(A)" after "an American Vessel".

"(3) EXEMPTION.—Section 13(a)(12) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)(12)) is amended by inserting "or a foreign documented vessel described in section 3(d)(2)(A)" after "an American Vessel".

Mr. Chairman, for the RECORD I include the following article from the New York Times on October 10, 1993:

**ABUSES PLAGUE PROGRAMS TO HELP EXPORTS OF AGRICULTURAL PRODUCTS**

(By Dean Baquet with Diana B. Henriques)

The Agriculture Department's \$40 billion campaign to bolster crop exports, begun a decade ago to help beleaguered farmers, has instead enriched a small group of multinational corporations while doing little to expand the American share of the world's agricultural markets.

From 1986 through 1989, for example, one large Agriculture Department program to help the United States compete against the Europeans awarded \$1.38 billion—more than half its payouts—to four multinational corporations, two of them based in Europe: Louis Dreyfus of France and Arterf Inc., which is owned by the Ferruzzi Group of Italy. The others were Cargill Inc. of Minneapolis and Continental Grain of Chicago.

A review of Government documents, many of them classified, also provides strong evidence that the department's export programs have been plagued by abuses. Many of these allegations, involving some of the country's biggest companies, remain under investigation.

**FOREIGN CROPS IN DISGUISE**

Some companies, including leading tobacco processors, used Federal subsidy programs to buy cheap foreign commodities and ship them from the United States, thinly disguised as American exports. One Government audit showed that of \$208 million of tobacco shipped under an export program in the late 1980's, at least \$135 million of it, or 65 percent, was grown in foreign countries.

At the same time, the Government has accused other companies, including Mitsui Inc., a Japanese trading house, and Comet Rice, the largest American rice exporter, of using the program to finance improper payments to officials and executives in Iraq, Mexico and other countries.

An examination by The New York Times of the subsidy programs highlights the symbiotic relationship between one of the biggest and least scrutinized Federal departments and some of the politically influential companies it regulates. It also sheds light on the revolving doors through which some of their top officials pass, and shows that the programs have done little to open new markets overseas.

**COURTSHIP OF IRAQ**

The study also illuminates an unexamined aspect of the United States' doomed courtship of Iraq before the Persian Gulf war: the questionable activities of some American companies vying to share in some \$4 billion of agricultural support to Baghdad.

Through the 1980's, as Washington sought to moderate Saddam Hussein's behavior, it gave Iraq loan guarantees so the country could borrow money to buy American crops.

In interviews with Government agents, Christopher P. Drogoul, a former manager of

the Atlanta branch of Banca Nazionale del Lavoro, a state-controlled Italian bank, has described a culture of bribes and kickbacks among American agricultural companies competing for Iraqi business.

One American cotton exporter kept a "bribe fund" to help it win Baghdad's business, said Mr. Drogoul, who has pleaded guilty to making unauthorized loans to Iraq. Other American executives traveled the world with suitcases filled with cash to pay brokers with ties to the Iraqi Government, he said.

To generate cash for kickbacks, Government documents assert, some American exporters overcharged the Iraqis for goods they shipped, with the complicity of Baghdad. While business-related gifts and favors are common in many parts of the world, they may run afoul of American laws, and investigators are trying to determine if any company officials violated the law.

In a recent interview, Federal District Judge Marvin Shoob of Atlanta, who presided over the Drogoul case, said he was concerned that Government investigators and the public might overlook the activities of big American companies that benefited from the Banca Lavoro loans.

"I feel some investigation is in order in view of the number of times some of these companies have come up in documents the court has reviewed," Judge Shoob said.

**REGULATORY TIES: A REVOLVING DOOR FOR AGRIBUSINESS**

On Capitol Hill, two leading members of the Senate Agriculture Committee—Tom Harkin, an Iowa Democrat, and Patrick J. Leahy, a Democrat who is the committee chairman—attributed the chronic abuses to the Agriculture Department's close ties to large agricultural businesses. Mr. Leahy said the department had a "good-old-boy attitude" toward the companies, which created "a cozy relationship all around."

Fostering this closeness is the interdependence of business and regulators. In 1988, for example, Christopher Hicks, the Agriculture Department's general counsel, argued against a plan that would have expelled many companies caught abusing department programs, arguing that it involved too many rules and too much red tape. Today, Mr. Hicks is out of the government, representing some big exporters.

David Kunkle was a top official in the Agriculture Department's main export program in 1990, when the Inspector General issued a scathing report accusing Comet Rice, a subsidiary of Early Industries of Los Angeles, of abusing the program.

Comet Rice, the Inspector General said, used Government-backed loans to finance payments and gifts to Middle East executives when the company was seeking business in Iraq. Export officials declined to disqualify Comet, which strongly denied using the loans to make the payments. Upon leaving the Government, Mr. Kunkle was hired for a year as a consultant at one of Comet's sister subsidiaries.

Clayton K. Yeutter, who served as Agriculture Secretary from 1988 to 1991, vastly expanded export subsidies to agricultural businesses that sold wheat and rice to Iraq. A month after he left office Mr. Yeutter became a consultant for the National Bank for Cooperatives, a Colorado bank that was a prominent participant in the export program to Iraq. Bank officials said they paid Mr. Yeutter \$50,000 for four meetings and some telephone consultations.

There is no evidence that the three officials violated Government rules, which generally forbade them to lobby the Agriculture Department for a year after leaving office.

Mr. Yeutter was traveling and unavailable for comment, his spokeswoman said. But a department official said he had received clearances before working for the bank.

Mr. Hicks did not respond to several messages left at his Washington office. And Mr. Kunkle, who now works for a consulting firm, is traveling in a remote region of the former Soviet Union and cannot be reached for comment, his office said.

The agriculture industry is one of the most politically powerful in America. Its lobbying forces can invoke the image of the American farm family struggling to hold onto its land, while using campaign contributions from some of the country's richest businesses.

"Agriculture is probably the most grassroots political department in Washington," said Joseph Wright, the director of the Office of Management and Budget in the Reagan Administration, who tried unsuccessfully to convince the department to be tougher on big agricultural businesses.

"It has offices around the country and tremendous political support" in Congress, he said. "Its bureaucracy is beyond the Secretary. It's beyond the President."

#### POWERFUL DEFENDERS: WEB OF PROGRAMS; FEW BENEFICIARIES

In interviews, Government officials acknowledged the abuses, and said Mr. Drogoul's allegations were under investigation. But they said the improprieties were relatively minor for a \$5 billion-a-year Government program. Moreover, they contended, the programs had been a big success, opening new markets for American farmers.

"They helped introduce some countries to American products, and it helped our country offset European competition," said Senator John B. Breaux, a Louisiana Democrat who is a champion of farm export programs.

Last month, President Clinton announced a plan to lift controls on technology exports, intensify efforts to promote manufactured goods, and offer up to \$600 million a year in subsidized loans for foreign buyers of American factory products. But so far he has sidestepped the politically volatile question of whether 80 percent of the country's export-financing dollars should continue to be spent on farm products, which account for only a tenth of American exports.

If the Administration decides to change that ratio, it must unravel a web of programs supported by corporate constituents. These companies' stake has grown as the focus of Federal export assistance has shifted from farmers to big corporations.

The export assistance effort began in the early 1980's, when it set out to promote international sales of American wheat, rice, and other products through a generous mix of loan guarantees and cash subsidies. The idea was to bootstrap struggling American farmers into a world marketplace increasingly dominated by foreign producers.

Yet for all their subsidies, American rice farmers, for example, have seen their share of the world market slip. They now hold about 19 percent, a share that has not budged since the subsidies began a decade ago and has actually dropped since the 1970's. The pattern is similar for other crops.

But if there is little proof that farmers benefited from the buildup in export assistance, there is evidence that big companies profited. Four corporations received nearly \$1.4 billion, or more than 60 percent, of the \$2.3 billion in subsidies dispensed through the Export Enhancement program, the most generous program, in its first four years.

An analysis of the other main program, the General Sales Manager program of the Com-

modity Credit Corporation, showed that federally guaranteed loans aimed at raising exports of more than two dozen crops, from barley to wheat flour, were dominated by six companies: Cargill Inc., of Minneapolis; continental Grain of Chicago; Louis Dreyfus; Archer-Daniels-Midland of Decatur, Ill.; CAM U.S.A., of Greenwich, Conn., and Pillsbury of Minneapolis, which is owned by a British company, Grand Metropolitan P.L.C. And some big participants are not American companies at all.

The programs require that beneficiaries be incorporated in the United States and maintain a presence in this country. But Government records show that some are little more than mail drops.

CAM U.S.A., the subsidiary of a company based in Paris, operates out of a small office in Greenwich, Conn., a wealthy suburb of New York City. It has a unlisted telephone number. Yet from this unlikely outpost, the company has brokered \$500 million in farm products with federally backed loans.

CAM was not the only company to take advantage of the program with a minimal presence in the United States. A report in 1990 by the Agriculture Department's Inspector General concluded that some leading participants in subsidized tobacco exports were foreign companies with post office boxes or one-person offices in the United States.

Agriculture Department officials said none of these companies was violating the rules, as long as they sold American farm products. **LITTLE SUPERVISION: FOREIGN TOBACCO IS SOLD IN DISGUISE**

The first hints that blatant abuses marred the loan guarantee program came one summer morning in 1989, when a Customs Service agent and two Congressional investigators turned up at a busy pier in Norfolk, Va. Acting on a tip, they pried open 40-foot shipping containers supposedly loaded with boxes of high-grade North Carolina tobacco.

But inside were bundles of foreign-grown leaf clearly marked "Product of Zimbabwe," "Product of France" and "Product of Brazil." The shipment was bound for Iraq, which bought the goods with loans guaranteed under the General Sales Manager program.

The investigators realized the Government was being duped into financing shipments of cheap foreign tobacco. Indeed, the exporters had made little effort to hide it.

Frank Weeks, an Agriculture Department investigator, recalled that the exporters said they were surprised they had not been caught sooner, because the tobacco being shipped was priced too low to be American-grown. And, he added, "When one company started doing it, and got it past the U.S.D.A., the others had to do it to stay competitive—or so they said."

In September 1990, eight tobacco dealers pleaded guilty to defrauding the Federal Government by substituting cheap foreign tobacco for higher-quality American. They were fined a total of \$300,000, and six of them agreed to make restitution to the Government totaling \$1.1 million.

The six also admitted to using Government-backed loans to make \$1.5 million in improper payments to unidentified officials and agents in Iraq and Egypt.

Tobacco was ultimately excluded from the program. But over the strong objection of the department's Inspector General, some of the companies that admitted guilt are still paid by the Government to store tobacco bought for distribution in other programs.

Department officials portray the tobacco cases as an isolated problem. But Govern-

ment records show that the agency made only one thorough examination of any major part of the export program. Its scrutiny of the \$4 billion trade with Iraq was prompted by the Persian Gulf war. And when investigators looked closely, they found widespread abuses that went beyond tobacco companies.

#### QUESTIONABLE PAYMENTS: DID BRIBES RESULT FROM GUARANTEES?

The reports assert that at least two other leading participants in the loan-guarantee program—Comet Rice and Mitsui Grain—overcharged the Iraqis on subsidized sales to generate enough cash to make payments to Iraqi officials.

In a little-noticed case, Mitsui has pleaded guilty in Federal District Court in Atlanta to using federally backed loans to make \$250,000 in illegal payments to Iraqis. The company has been fined and temporarily barred from the program.

As for Comet Rice, Government documents contend that Comet gave \$95,000 in cash and equipment to Middle Eastern businessmen and officials. At least \$50,000 of that went to a Jordanian lawyer with close ties to Jordan's royal family. The payments were funneled through a Cayman Islands bank account that was inaccessible to investigators, leading the Government to question whether other questionable payments were made through the account.

Gerald Murphy, the chairman of Erly Industries, Comet's parent, said the payments were not covered by the loan guarantees, but came from Comet's own accounts. He described them as normal service to big customers and said the Iraqis used the money to buy equipment that helped the rice trade. The company has not been charged with a crime, but the investigation is continuing.

Federal officials, speaking on the condition that they not be identified, said it would be hard to make criminal cases against most American companies. The Agriculture Department's export program rules are so lax that until recently, it was not clearly illegal to use money generated by loan guarantees to provide gifts or cash to importers. Even if the rules were more precise, officials said, it would be hard to tell whether payments came from Government-backed loans.

While examining the Iraqi trade, investigators also found signs of trouble elsewhere. Former executives of Progresso Grain Inc., a large grain dealer in Progresso, Tex., confirmed that the company made \$100,000 in cash payments to Mexican importers to obtain their business. William Haney, who became the president of Progresso in 1990, said the payments were authorized by a top executive who preceded him. Mr. Haney, in an interview, said he saw checks written to the Mexican executives.

Progresso has since gone out of business.

#### STUDIES FIND BENEFITS OF SUBSIDIES ARE MEAGER

(By Diana Henriques)

Supporters of the Agriculture Department's export subsidies say the programs opened new markets for American farm products and helped preserve old markets in the face of large European subsidies.

But trade statistics and Government reports, including the Agriculture Department's own studies, provide little evidence that the programs have helped American exports substantially.

"Generally, all the people who have studied these things reach a similar conclusion:

It just doesn't work," said Cletus C. Coughlin, senior economist at the Federal Reserve Bank of St. Louis, who has studied subsidized wheat sales.

Since 1986, more than 80 percent of the money in one program has been spent to subsidize wheat sales. But while wheat exports increased in 1987 and 1988, the department's researchers credited the subsidies with only 20 percent of that growth; the rest was attributed to other factors. After 1988, wheat exports declined, falling below the levels that prevailed before the program started, trade records show.

The same trend is evident in market share. America sold 30 percent of all world wheat exports in the 1986 crop year. That grew to 41 percent by May 1988, then slumped to 30 percent last month.

The European Community's share of world wheat exports now stands just shy of 20 percent—about four percentage points higher than in 1980. Similar patterns can be seen in feed grains, corn, rice and soybean products.

Export subsidies have been part of Federal farm aid since the Depression, but most Depression-era programs were scrapped in the early 1970's, when American farmers benefited from a turbulent boom in global trade, fed by escalating oil prices. By the late 70's, high interest rates and a strong dollar were undermining those gains, and farm groups began to demand Federal help.

In response, the Agriculture Department created an elaborate system of loan guarantees, cash payments and tax-financed promotional campaigns for farm exports.

There are two principal programs. In one, the General Sales Manager program, the Government guarantees the repayment of \$40 billion in commercial bank loans for countries that could not otherwise get credit to buy American farm products. Most of those guarantees cover loans to Iraq, Mexico and the former Soviet Union. About \$4.6 billion of those loans are in default, with American taxpayers picking up the payments.

The second program reimburses exporters—with cash or surplus crops stockpiled by the Government—to offset price reductions they must offer to compete in foreign markets. Under this program, known as the Export Enhancement Program, the Government has spent about \$5.4 billion to subsidize about \$18 billion worth of exports. A third, smaller effort provides up to \$1.25 billion in direct grants to finance promotional campaigns.

By and large, these programs are an inefficient way to help American farmers, said Robert Paarlberg, a political science professor at Wellesley College and an associate of the Harvard Center for International Affairs. "In the case of wheat, for example, the Government could provide a greater benefit to wheat farmers at lower cost to the taxpayers if it simply purchased the surplus wheat and burned it," he said.

And the General Sales Manager program "is a way of trying to buy, or at least rent, foreign customers at considerable risk to taxpayers," he said. "Sure, it doesn't cost you a penny until there's a default—but then it costs you billions."

#### A RICE EXPORTER'S COZY LINK TO U.S. AGENCY REAPS PROFIT

(By Diana B. Henriques with Dean Baquet)

On Nov. 7, 1988, a cable stamped confidential landed on the desks of officials of the Iraqi Grain Board, one of the largest buyers of imported rice. It was from Peter Vegas, an executive of Comet Rice, a unit of the chronically unprofitable Erly Industries in Los Angeles.

Although the grain board had requested bids, this was not a bid, but an audacious promise—"We are offering to beat the lowest offer that you receive."

The cable explained that Comet Rice had a new plant in the port of Aqaba, Jordan, where rice could be unloaded in bulk, polished, bagged and loaded on trucks bound for Iraq—for at least \$30 a ton less than other bidders. By August 1990, when the Persian Gulf war halted trade with Iraq, the new plant had achieved its purpose: Erly Industries had a near-monopoly in one of the most coveted rice markets.

#### LOW-COST U.S.-BACKED LOAN

What the cable did not explain was that the Aqaba plant had been built with a low-cost \$4 million federally backed loan from the United States Agency for International Development, which has also given Erly more than \$134 million in consulting work.

In a broad examination of the cozy relationship between Corporate Agriculture and the Federal Government, the case of Erly Industries discloses how easily a politically connected agricultural corporation can reap rewards by skillfully exploiting loosely managed Federal programs.

Erly's dealings with A.I.D., the chief conduit for American assistance to needy nations, enabled the corporation to build a plant that lifted its Iraqi rice sales by almost \$100 million, more than a fourfold increase.

#### ACCUSED OF NO CRIME

Comet has not been accused of a crime, but officials of the aid agency now say they believe the company may have acted unethically by not fully explaining just how much it would benefit from the Government-financed plant.

Dozens of interviews, court and corporate documents and hundreds of Federal documents obtained through the Freedom of Information Act provide the following details about how Erly used an obscure Government program to corner a valuable market:

The company did not disclose to A.I.D. the true aim of the Aqaba project, which was to use a little-known Government loan program to give Comet Rice an advantage over other American rice companies.

It did not disclose its leadership role in the project, letting the agency conclude that a Jordanian company was in charge and that all United States rice exporters would benefit.

It helped its Jordanian partner sidestep the agency's competitive bidding rules in the buying of plant equipment, thereby ensuring that its Comet subsidiary would receive a portion of the loan funds as payment for the equipment.

It reaped additional profits by investing the low-cost loan proceeds in the United States at higher interest rates.

It used international government connections, developed at taxpayer expense through a subsidiary's consulting work for A.I.D., to foster its own commercial interests.

Richard L. McCall, who took over this year as chief of staff at the agency, said he had referred the Aqaba loan to the general counsel for review. "It is an ethical question," Mr. McCall said. "For us to be used in any shape, form or fashion for anything but to help develop needy nations is wrong." But he conceded that "we have got to more effectively manage this place" so that all project applications are examined more carefully.

Gerald D. Murphy, Erly's affable and strong-willed chief executive and the company's largest shareholder, sees the Aqaba

story as an example of "solving my customer's problems" through a grasp of "how the political game is played."

"I don't have any problems with that," said Mr. Murphy, a conservative Republican who claims friendship with former President Ronald Reagan and other Republican stalwarts. "Those are the rules. I've never understood people who sit back and play a game and don't understand the rules. How the hell are you going to win if you do that?"

#### GETTING THE LOAN: SELLING THE DEAL TO THE AGENCY

Mr. Murphy, a 65-year-old Harvard Business School graduate who has personally directed his company's investment and business strategy over two decades, says the Aqaba plant was his idea. He planned it. Comet Rice built it and a Comet subsidiary managed it—all for Comet's exclusive use.

But Louis Reade, the agency official who approved the project in 1988, said he was shocked to learn that Erly developed the project for the exclusive use of Comet. "There was no intent to set this up for an individual American corporation," Mr. Reade said.

Instead, he said, A.I.D. believed the loan applicant was a Jordanian company that would create jobs and serve all American rice exporters.

But, according to Mr. Murphy, Jordanians were involved in the Aqaba project only because Jordanian law required it—and because his partner, Wafai Dajani, brother of a former Jordanian Cabinet minister, had "useful" connections.

#### OTHER EXPORTERS BARRED

In return for serving as Comet's agent in Jordan, Mr. Dajani and his relatives got consulting fees and a share of the profits. He also invested in the project.

Comet barred other American rice exporters from the Aqaba plant. "I saw no reason to be the front-end guy taking the risk and pass it off to somebody who hadn't taken the risk," he said.

The risk seemed worthwhile: in 1983, when the United States resumed relations with Iraq after a 16-year freeze, Baghdad, with the help of Agriculture Department loan guarantees, became one of the world's biggest buyers of long-grain rice. The department backs commercial loans for countries too strapped to get bank credit on their own.

Seeking more Iraqi business, Mr. Murphy flew to Baghdad in 1987 and, he said, met with Zuhair Daoud, head of the Iraqi Grain Board. Mr. Murphy asked the Iraqi official to list his biggest rice problems. The answer: shipments from Turkey were vulnerable to bandits, shipments into Aqaba were slow and all shipments came in big unwieldy bags.

Mr. Murphy had the perfect solution: an automated rice processing plant in Aqaba. "But we needed some financing," Mr. Murphy said, "and we said, 'Hey, this sounds like an A.I.D. project.'"

#### AGENCY'S CONSULTANT: KNOWING THE ROPES, HIDING TIES

It is understandable that A.I.D. came to mind. Chemonics International, one of the few profitable subsidiaries of Erly Industries, relies on agency contracts for more than 98 percent of its revenues. On the Aqaba project, Mr. Murphy said, Chemonics knew the right person to see.

When Mr. Murphy's brainchild was submitted to the agency the actual application was made by Amman Resources, Mr. Dajani's company.

The application reflected a thorough knowledge of the agency's policy manual—

and it conspicuously avoided disclosing the true relationship between Comet Rice and Amman Resources.

For example, the executive who signed numerous letters from Amman Resources to A.I.D. and the Bank of Jordan is also listed in Erly Industries records and correspondence as an employee of Comet Rice. Nowhere in the agency correspondence is Comet identified as anything but the supplier of equipment for the plant.

#### NO COMPETITIVE BIDS

The agency's rules normally would have required Amman Resources to get bids from other suppliers of rice-processing equipment. Amman Resources avoided this by telling the aid agency that it had a "sole distributorship" contract with Comet, signed on Oct. 21, 1987.

This contract, the agency was told, prevented Amman Resources from buying the equipment from other companies. Without checking, the agency exempted the project from competitive bidding rules.

On Feb. 2, 1988, a \$4 million loan to Amman Resources was approved by the agency, based on the conclusion that it would help Jordan.

#### PROFITING ON LOAN: AN INVESTMENT BRINGS WINDFALL

With A.I.D.'s green light, Mr. Murphy's partnership negotiated the loan terms with the Bank of Jordan—and arranged to profit by investing the proceeds in a safer currency and at higher interest rates than the original loan.

In early 1988, the partners made a 10 percent down payment on the \$4 million project and borrowed \$3.6 million, in Jordanian dinars, for five years at 6.25 percent interest. That is at least seven percentage points less than Erly would have paid for credit in the United States, given the company's shaky finances. Indeed, the agency-backed rate was less than the Federal Government, considered the soundest borrower around, was being charged on five-year Treasury bonds. A seven-point cut in the interest rate on a \$3.6 million loan saves the borrower \$252,000 a year.

Mr. Murphy is proud of the arbitrage windfall. First, his partnership shifted the loan from dinars into dollars ahead of a 40 percent deterioration in the dinar, which meant it took fewer dollars to repay the borrowed dinars. "We had good information," Mr. Murphy said with a smile, when asked if Mr. Dajani's connections had guided the currency switch.

#### DEPOSITED IN NEW YORK

Then, the borrowed dollars were left on deposit at the New York bank "because it earned more interest than it was costing me on the A.I.D. loan on the other side," Mr. Murphy explained. He did not say how much more, but many five-year corporate bonds were paying at least 8.25 percent interest in 1988.

What is less clear is how the partnership paid for the rice-processing plant. Comet's independent audits show the Aqaba partnership had also taken out an interest-free loan from Comet during this period, but Mr. Murphy said he could not recall if that covered the cost of equipment shipped to Jordan or equipment for a subsequent expansion.

Nor is it clear whether A.I.D. regulations address such arbitrage activity. "But," said Mr. McCall, the chief of staff, "I feel the taxpayers' dollars should not be used to manipulate a set of circumstances and reap a profit at the public's expense."

#### CONNECTIONS: FINDING BUSINESS: A POLITICAL PROCESS

The A.I.D. loan is but one example Mr. Murphy cites of how his company has bene-

fited from official connections that Erly's Chemonics subsidiary has developed through its aid agency work.

Mr. Murphy said he started Chemonics in 1976 because "I've always wanted a way to do two things: one, have my own C.I.A., and two, be helpful to people."

His recipe for cooking up business, he said, was to send the new unit's president to Washington to call on members of Congress, announcing he was a consultant looking for business.

Chemonics, whose staff includes former A.I.D. and Agriculture Department officials, has more than quadrupled its revenues in the last decade. It has been hired by the aid agency to work on issues close to Erly's heart, ranging from trade policy in Jamaica, where Comet was trying to increase its rice imports, to alternative crops in Honduras, where Erly was considering a citrus project.

#### AN OPEN DOOR

Thanks to Chemonics contacts with top-level ministers of foreign governments, Mr. Murphy said, Erly executives "have an open door to walk in and sit down and talk about whatever seems sensible." And Chemonics "has given me an appreciation for the political process in Washington in a different way," he added.

"It's obviously a political process," he continued, "A.I.D. contracts just don't happen." Thurston Teele, the president of Chemonics, said he helped on the Aqaba A.I.D. project. But he disputed Mr. Murphy's account of the unit's role in other Erly ventures, saying Chemonics had "scrupulous policies" in place "to avoid conflicts of interest."

Nevertheless, more than a dozen Chemonics proposals to the agency boast of linkages among various Erly subsidiaries. In one, Chemonics noted that Erly "has strong and influential links with U.S. Government agencies, from which our projects can benefit." On another, Mr. Murphy himself was picked to serve on a project advisory council. And in each instance, Chemonics reassuringly depicts its parent corporation as successful and financially robust.

#### STORM WARNINGS: COMPANY RECORD A BUMPY ROAD

In fact, without the profits Erly earned by dominating the Iraq trade and advising the aid agency, the publicly traded corporation almost certainly would have sunk under the weight of its own financial mismanagement.

What Chemonics left out of the corporate track record was a messy series of unwise loans, mushrooming debt, unsuccessful acquisitions, aborted spinoffs, lax accounting and money-losing foreign ventures.

In 1988, as the Aqaba project was being built, Erly told investors that if faced "a short-term cash liquidity problem." A little more than a year later, Erly missed an interest payment to bondholders and its independent auditors were warning that there was "substantial doubt about the entity's ability to continue as a going concern."

In March 1990, Erly proposed a complicated merger between its Comet Rice unit and another struggling company, American Rice Inc. of Houston, which it controlled—but it could not find lenders.

Clearly, despite the glowing descriptions by Chemonics, Erly would have had trouble competing in Iraq against strong American rivals like the Continental Grain Company or Cargill Inc., without its edge in Aqaba.

As it was, Erly's sales to Iraq grew from less than \$19 million in March 1987 to \$114.5 million in March 1990. By then, Comet's

share of Iraq's rice trade through the Federal export credit guarantee program exceeded 80 percent. And sales to Iraq by Comet represented a remarkable 30 percent of Erly's overall revenues.

#### WAR SCARS: GULF CLASH A BLOW TO ERLY'S TRADE

But by August 1989, the warning flags were flying. That was when Federal agents raided the Atlanta branch office of Banca Nazionale del Lavoro, the big state-controlled Italian bank, investigating whether the bank had made \$4 billion worth of unauthorized loans to Iraq.

Banca Lavoro had helped finance Iraq's purchases of agricultural products, including rice from Comet. With the raid, Iraq's eligibility for the export credit program was threatened. Then, in August 1990, Iraq invaded Kuwait and trade with Baghdad was embargoed.

The impact on Erly was severe. By March 1991, only \$21.5 million worth of rice had been sold to Iraq, all of that before the invasion. In March 1992, Erly reported a \$12.5 million loss, as the vanishing Iraq business halved Comet's profits. That—and the Federal investigation of Comet's own dealings with Iraq through Banca Lavoro—made bankers leery of financing the merger with American Rice, Mr. Murphy said.

Erly finally mustered enough credit to complete the merger last May, but as part of the deal, Comet sold the Aqaba plant and a Cayman Island management unit to Mr. Dajani, its Jordanian partner, a deal that finally allowed other companies to use the plant.

Indeed, since the sales contract gives Comet a royalty on non-Comet rice handled by the plant, Mr. Murphy is encouraging his rivals' business. "Hey," he said, "I'm a generous guy."

#### A COMPANY UNDER INVESTIGATION, BUT ITS SHAREHOLDERS AREN'T TOLD

For nearly three years, Erly Industries of Los Angeles has endured a Federal investigation of its rice sales to Iraq, which were financed by the Atlanta branch of Banca Nazionale del Lavoro, the state-controlled Italian bank that is the focus of a continuing Federal inquiry. But Erly has not formally told its shareholders of the investigation.

Gerald D. Murphy, Erly's children, said the investigation delayed a crucial merger between the Comet Rice unit of Erly and American Rice Inc. of Houston, which Erly also controls. That brought American Rice's principal rice-processing plant in Freeport, Tex., to the brink of foreclosure by its banks, and pushed Erly's slender net worth so low that last November it lost its license as an approved warehouse for Federal crop programs.

But neither Erly nor American Rice—both publicly traded companies—has mentioned the Federal inquiry and its side effects to investors and regulators in filings with the Securities and Exchange Commission.

"My God," Mr. Murphy said, "What am I supposed to disclose? That the press is pestering us, and because it's pestering us, it's going to cost us a lot of money? That's a silly kind of statement."

American Rice's shareholders narrowly voted approval of the merger in March 1991, based on a merger plan dated Jan. 22, 1991. Despite all the subsequent developments, shareholders were not given an updated proposal or a chance to reconsider their vote before the merger was concluded last May.

Texas law did not require a new vote, said John Howland, chairman of the merged company's board and former chief executive of

American Rice. Instead, the board relied on recent advice from Houlihan, Lokey Howard & Zukin, a Los Angeles investment bank, that the deal was still fair.

John G. Mavredakis, a managing director of Houlihan, LoKey, said the firm stood behind its fairness opinion, but he would not discuss its contents.

Long before the final merger was concluded, two of the three independent directors of American Rice resigned, leaving a board dominated by large Erly shareholders: Mr. Murphy; Douglas Murphy, his son, and William Burgess, also an Erly director. "We didn't feel it would be productive to appoint additional directors." Mr. Howland said. "But nothing has been done that disadvantaged the public shareholders."

#### AGRICULTURE COMPANIES STILL GET FEDERAL BUSINESS DESPITE ABUSES

(By Dean Baquet with Diana B. Henriques)

Defying a Presidential order and requests by its own investigators, the Agriculture Department continues to give billions of dollars of business to politically powerful agricultural companies that have been caught rigging bids, fixing prices and defrauding Government programs.

Repeatedly in the last decade, the Agriculture Department's Inspector General, the internal watchdog official responsible for investigating corruption and abuse within the department, has urged top department officials to bar these businesses from participating in Government programs or, at the very least, to impose stiff fines on them, according to interviews and thousands of pages of internal documents obtained under the Freedom of Information Act.

The companies accused of abusing Government programs include huge dairies like Borden and Pet, and one of the nation's biggest rice exporters, Comet Rice, a subsidiary of Erly Industries.

But in virtually every instance, records show, top department officials—including the Secretary of Agriculture in the Bush Administration and his most senior aides—have refused to comply or have prolonged the process for years, with arguments that the department lacks the legal expertise to bar companies, and that kicking major businesses out would cause some programs to collapse.

Mike Espy, the Secretary of Agriculture, referred questions about the department's current policy to James Gilliland, the new general counsel. Mr. Gilliland said the department had declined to take sterner measures because it was satisfied with its own regulations regarding expulsion and suspension of companies. Harsher moves would be far too cumbersome and involve unnecessary paperwork, said Mr. Gilliland, a Clinton Administration appointee and a friend of Vice President Al Gore.

But documents and interviews show that every other Government agency went along with a directive issued by former President Ronald Reagan requiring that any company found abusing a Government program be barred from all other Government programs. And the Agriculture Department's own Inspector General and other nondepartment officials had repeatedly criticized the department's own rules as far too lenient—a view that Mr. Gilliland said he did not share.

Most other Federal agencies have refused to accept arguments that the Presidential order was unworkable, documents show. In October 1988, for example, officials in the Office of Management and Budget wrote an unusually harsh memo accusing top Agri-

culture Department officials of "entrusting Government funds to those who have been found irresponsible and with whom every other Government agency will not do business."

Given the department's reluctance to punish big companies, some of the largest Federal food programs—ranging from subsidized grain exports supervised by its Foreign Agricultural Service to school lunches subsidized by the Food and Nutrition Service—continue to be dominated by the same companies that have abused the programs in the past.

The programs involved entail up to \$50 billion in annual assistance payments—including loans, grants, loan guarantees, direct subsidies and cash reimbursements—and make up the bulk of the Agriculture department's spending.

Besides the Food and Nutrition Service's reimbursements to hundreds of school districts that buy milk and bread for school lunch programs, the assistance payments cover a broad array of projects like the Foreign Agricultural Service's programs that help foreign governments buy billions of dollars of American farm commodities from conglomerates like Cargill, Continental Grain and Comet Rice.

In examining how the Agriculture Department polices its huge subsidy and grant programs, the New York Times obtained more than two dozen internal Government audits and nearly 1,600 pages of departmental correspondence and reports. They highlight how sprawling bureaucracies like the Agriculture Department, one of the Federal Government's biggest departments, can become so powerful that they can defy Federal policies and even ignore the direct orders of Presidents.

These were among the findings from the documents and from interviews:

From the late 1980's until last summer, 52 American dairies were convicted of price-fixing and bid-rigging Federal contracts to sell milk to school lunch programs and military bases. Despite requests from other Federal officials, the Agriculture Department has expelled only two relatively small regional dairies, and those actions have come only in the last two months. Based on the same instances of misbehavior, the Defense Department already has suspended or expelled nearly three dozen dairies, including several industry giants.

Three years after internal Agriculture Department investigators issued a series of highly critical reports accusing some major export companies of abusing the nation's biggest farm export program, most of those companies continue to do business with the department.

Many of the Agriculture Department's major agencies, including the Foreign Agricultural Service, award grants and loans to companies without checking them against a list of companies and individuals banned from Government programs. One result: the department gave \$60 million in export subsidies to Richco Grain, partly owned by Marc Rich, a fugitive American financier regarded by Federal prosecutors as one of the biggest tax cheats in history. Had the Agriculture Department checked, it would have found that Mr. Rich had been barred by other Government agencies for years.

The Agriculture Department is the only Government agency that has refused for seven years to comply with President Reagan's 1986 Executive Order No. 12549, an obscure but sweeping anti-corruption measure aimed at insuring that the Government did not continue to do business with companies that had violated Federal regulations.

#### POWERFUL CONSTITUENTS: U.S. RESOLVE IS QUESTIONED

The failure of the department to take strong action against companies that abuse its programs highlights its deep and longstanding relationships with its powerful corporate constituents. It also raises questions about the Government's ability and resolve to root out and eliminate the corruption that adds to the costs and erodes the effectiveness of its biggest and most visible programs.

In August, Senator Patrick Leahy, a Democrat from Vermont, said he would push legislation forcing the department to expel dairies that rig bids. The Senator, who is chairman of the Senate Agriculture Committee, said his bill, if passed, "will end a history of Government inaction—to the point of tolerance—for corporations that steal from taxpayers and schoolchildren."

Ellen Haas, the new Under Secretary in charge of the department's Food and Nutrition Service, said in a recent interview that she planned to step up efforts to expel from her program some of the big dairy companies convicted of wrongdoing.

In addition to the expulsion of two regional dairies—Coble Dairy Products Cooperative Inc. of North Carolina and the Dairy Fresh Corporation of Alabama—she said her agency was examining a dozen other dairies convicted of various crimes, and would likely take additional action. Unlike Mr. Gilliland, the general counsel, she criticized the previous Administration for its leniency.

"I think it was an irony of a previous Administration that talked about fraud and abuse to be as permissive as they were," she said.

Even if the Clinton Administration were to get more aggressive, present and former senior Government officials said it would take a change in attitudes throughout the massive agency for it to adopt a tougher stance against companies that run afoul of its rules. They pointed out that some members of the Reagan and Bush Administrations had made similar efforts in the past, without success.

And one document obtained by The Times raises questions about the new Administration's appetite for confronting this issue. It shows that as recently as last summer, the department decided not to push to expel a shipping company whose top management had been convicted in a criminal dumping case, because to do so would resurrect the earlier debate over whether the department was too lax.

The case involved William P. Reilly and John Patrick Dowd, the two top executives of Coastal Carriers, a Maryland shipping company. Their freighter, the *Khian Sea*, left Philadelphia in August 1986, bound for the Bahamas, loaded with 15,000 tons of incinerator ash. For more than two years, the potentially dangerous shipment was turned away at ports in the Dominican Republic, Haiti, Honduras, Costa Rica, the Cape Verde Islands, Turkey and Chile. Finally, the ship dumped the ash into the Indian Ocean. In July of this year, the two senior executives were convicted of perjury for lying to a grand jury when they denied illegal dumping.

#### ALARMED LETTER: A COMPANY IS NOT EXPELLED

Still, neither the executives nor the company were expelled from any of the Agriculture Department's programs that subsidize the costs of shipping American farm products abroad. This led to an alarmed letter on July 23 from a top official of the Foreign Agricultural Service, Christopher E.

Goldthwait, to Thomas V. Conway, the department's associate general counsel.

"We believe we should move to suspend Mr. Dowd, Mr. Reilly, and Coastal Carriers based on making false statements and a lack of business integrity," Mr. Goldthwait wrote. "We understand that both Mr. Dowd and Mr. Reilly are probably still involved with firms which supply ocean transportation under our food aid programs."

Mr. Goldthwait went on to complain that Mr. Conway's office had so far resisted his plea that Coastal Carriers, Mr. Reilly and Mr. Dowd be suspended because department lawyers did not want to start proceedings that might "draw attention to this contentious issue" of the Agriculture Department's failure to comply with the Government-wide debarment rules in the past.

"Given the nature of the offense," Mr. Goldthwait wrote, "I think it is important for us to move ahead with our suspension action. We do not want carriers to take lightly the certifications they must make in connection with shipments under our food aid programs."

Last week, Mr. Reilly was sentenced to 37 months in prison and fined \$7,500. Mr. Dowd was fined \$20,000 and sentenced to five months in prison.

Mr. Goldthwait said in an interview two weeks ago that the department had just begun the process of expelling the two men from Government programs. The process could take several months, because the subject usually gets the opportunity to respond to the department's proposed expulsion.

When President Reagan first signed his executive order to ban misbehaving companies from Federal programs, the Agriculture Department immediately balked. And it made no bones about the reason: the mission of the assistance programs was to help big agriculture businesses, department officials argued, there was no need to antagonize those businesses.

"Assistance relationships are very close, and usually cooperative, as opposed to 'arm's-length' procurement-type relationships," wrote Lawrence Wilson, then acting director of the department's Office of Financial Management, in a letter to the Office of Management and Budget on April 22, 1986. He added that looking into the background of each participant in the huge export programs—which can include farmers, exporters, shippers and banks—would create a paperwork nightmare.

But over the next two years, every other Federal agency followed the Presidential order and devised rules for suspension and debarment. The list of companies that had abused Federal programs grew massive, eventually becoming a bound book that runs to 250 pages. The list was distributed to all Government purchasing officers so they could check a new program applicant to see if it had abused some other agency's programs in the past.

But as other departments complied, the Agriculture Department resisted the Presidential order, repeating in one memorandum after another the phrase that Clayton K. Yeutter, then the Secretary of Agriculture, used in a letter to Richard G. Darman, director of the Office of Management and Budget, on Feb. 16, 1989: "We would prefer to maintain the status quo."

Under pressure from O.M.B. which was charged with carrying out President Reagan's order, the Agriculture Department did agree in the spring of 1988 to carry out some aspects of the anti-corruption program. But it insisted on exempting some of its largest, most expensive agencies.

Officials at O.M.B. were livid, they said in interviews. On May 25, 1988, James B. MacRae Jr., O.M.B.'s chief compliance official, wrote that the agriculture department's proposal to exempt most of its operations from the executive order was "inconsistent with O.M.B.'s guidelines which are part of the Administration's initiative to prevent fraud, waste and abuse."

Over the next four years, the internal battle grew even more heated, according to interviews with present and former officials. Inspector General Leon Snead, charged with policing abuses in department programs, strongly urged Mr. Yeutter and other top officials to cooperate with the anti-corruption initiative, the officials said.

Nonetheless, the Agriculture Department insisted on exempting five of its key agencies. Soon, thereafter, for reasons not explained in the internal documents, the Office of Management and Budget apparently gave up the fight.

Current officials at O.M.B. declined to be interviewed for this article.

As the Agriculture Department was resisting the anti-corruption measures, Federal and state prosecutors were finding that one of the department's most visible domestic projects, the school lunch subsidy program, was awash in corruption. In state after state, investigators found that dairy and bakery company executives had conspired to subvert competitive bidding procedures and divide up the marketplace by deciding in advance who would submit the winning bid in each territory.

The practice drove up the prices school districts paid by eliminating competition. The Agriculture Department, and American taxpayers, were the ultimate victims because the department reimbursed the local school districts for the cost of milk and bread.

#### BIG AGRICULTURE

##### PROVIDES A STUDY IN RAW POWER

(By Diana B. Henriques)

Why are giant agricultural corporations treated so gently by their Federal regulators?

Some critics blame the close ties between senior Federal officials and the corporations they regulate, and the "evolving door" by which former Government appointees take up lucrative corporate positions.

But in dozens of interviews, current and former Government officials also cited another reason: the raw political power wielded by big agricultural interests. And, many officials said, there was no better example of the bruising effects of that power than the "rice wars," a bitter trade dispute that the American rice industry waged with South Korea in the early 1980's.

The battle began when the South Korean rice harvest failed in 1980. After agreeing to buy all available California rice, the variety Koreans prefer, Seoul looked to Japan for more.

#### A DILEMMA FOR AGRICULTURE

But under a bilateral agreement Tokyo had just signed with the Agriculture Department, in which Japan promised not to dump its heavily subsidized rice on world markets, the Japanese-South Korean deal required Federal approval.

This posed a dilemma for the department. Approval would give Seoul leverage in negotiations with American suppliers and infuriate the American rice lobby. But rejection could destabilize South Korea, an important ally and trade partner.

So the Agriculture Department offered a compromise: in exchange for Federal ap-

proval, South Korea had to agree to buy additional American rice.

The compromise placated neither the powerful Rice Growers Association nor the Farmers Rice Cooperative, the two co-ops that controlled more than half the California rice crop. Their exclusive trading agent was Grover Connell, a generous contributor to Congressional campaigns. The lawyer for the co-ops was Joseph L. Alioto, the colorful Democratic politician and former San Francisco mayor. The prior year, Mr. Connell had figured in the "Koreagate" Congressional influence-peddling scandal that swirled around Tongsung Park, who was Mr. Connell's agent in trade deals with Seoul.

The co-ops argued vehemently against the Japanese sale and then appealed to Congressional allies, who accused the South Koreans of stalling on the additional rice purchases.

Finally, Mr. Alioto took aim at the State Department—specifically, at Robert Richmond, the Korea desk chief, and his superior Anthony Albrecht, the Deputy Assistant Secretary for East Asian affairs. He accused both men of improperly urging Seoul to delay its rice purchases. Both officials, who were later cleared by a State Department investigation, now say they believe the incident damaged their careers. Mr. Alioto did not return calls seeking comment.

In December 1981, then-Representative John Breaux of Louisiana—now a Senator—and more than a hundred other Congressmen sent a letter to the South Korean President hinting that Seoul's rice purchasers were corrupt. The co-ops filed lawsuits, accusing rival suppliers of bribing the Koreans. Defying diplomatic immunity, Mr. Alioto subpoenaed the South Korean ambassador, touching off a political crisis in Seoul.

It is not clear whether South Korean officials were unwilling to buy the rice as the emergency eased—or whether they were just unwilling to deal with Mr. Connell, who was openly insulting them. It hardly mattered. Every deal Seoul struck with a rival supplier set off a Congressional uproar.

Enter the strong-willed Gerald D. Murphy the chairman of Erly Industries. In December 1981, over lunch at La Caravelle restaurant in New York, Mr. Murphy—who boasted of strong Republican connections—told Mr. Connell he intended to compete for the Korean business. In May 1982, Mr. Murphy beat out Mr. Connell in a bid to supply Seoul with 370,000 metric tons of rice.

#### "PLAYING CHICKEN"

But he only had about 130,000 tons; he planned to buy the rest from the California co-ops. They refused his initial offers because, Mr. Connell later explained they believed Mr. Murphy could be forced to pay more to avoid defaulting on his contract. In fact, Mr. Murphy's contract called for a very modest default penalty. While he stood pat and the White House took a hands-off approach, the co-ops faced skyrocketing bills for storing the unsold rice.

This ruinous stalemate was broken in July 1983 by Ralph Newman, the new chief executive for the Farmers Rice Cooperative. "The costs of playing chicken with the Koreans were just astronomical," Mr. Newman said. Breaking ranks with Mr. Alioto and Mr. Connell, he offered his rice to the Koreans—through any intermediary they wished.

It was South Korea's last major rice purchase, from the United States or anyone else. At the height of the conflict, leaders in Seoul became so disgusted that they renewed the nation's drive for self-sufficiency in rice.

All major agricultural corporations share the power of the rice belt, according to Representative Charles E. Schumer, the Brooklyn Democrat, because legislators band together to protect one another's pet crops. "The exporters are very powerful politically," he said.

#### SIDESTEPPING AN EXECUTIVE ORDER

The Agriculture Department is the only United States department that has failed to comply with the Reagan Administration's 1986 order to deny contracts to companies that have been suspended or removed from other Government assistance programs. A chronology of Agriculture's efforts to avoid compliance follows.

Feb. 18, 1986.—President Reagan signs Executive Order 12549 mandating that any company suspended or removed from one Government assistance program is barred from participating in all other Federal programs.

April 22, 1986.—The Agriculture Department balks. Lawrence Wilson, then acting director of Agriculture's Office of Financial Management, tells the Office of Management and Budget, that the department's relationships on assistance contracts "are, by their nature, very close, and usually cooperative, as opposed to 'arm's-length' procurement-type relationships."

Feb. 24, 1988.—As other Government departments begin to comply with the order, Mr. Wilson, in a letter to O.M.B., says that, given a choice of creating a rule barring certain companies from participating in any Federal program or delaying it, "U.S.D.A. would prefer to maintain the status quo at this time." He argues that it would take time to teach the staff how to implement the policy and that no one could forecast the impact of barring companies. He reiterates his views a month later.

May 25, 1988.—The day before the deadline for compliance with the executive order, James B. MacRae Jr., acting administrator for O.M.B.'s office of information and regulatory affairs, notifies Christopher Hicks, general counsel at the Agriculture Department that its proposals for compliance are "inconsistent with O.M.B. guidelines, which are part of the Administration's initiative to prevent fraud, waste and abuse." The problem is that the department wants to exclude "large numbers of U.S.D.A. programs from the order."

June 29, 1988.—Joseph R. Wright Jr., deputy director of O.M.B., has a note hand-delivered to John J. Franke Jr., assistant Agriculture Secretary saying, "U.S.D.A. still is the only agency who has not joined the common rule on suspension and debarment." Noting that Agriculture had not even submitted a revised proposal, Mr. Wright says "It would be very helpful for you to get your agency moving in this direction. Thanks."

Feb. 16, 1989.—Clayton Yeutter, Agriculture Secretary, writes Richard G. Darman, the O.M.B. director, and reiterates the opposition.

May 1990.—Mr. MacRae of O.M.B. writes to Alan Raul, the Agriculture Department's general counsel, rejecting a proposed rule for the Foreign Agricultural Service because it does not automatically bar corporate participants that have been barred by other Government departments.

There is no record of further O.M.B. efforts to secure compliance by the department.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do so only to thank our colleague, the gentlewoman from

Maryland [Mrs. BENTLEY] for bringing us this information, working with us, and we look forward to her continued input and working with us as we address this issue in the next year.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Kansas.

Mr. ROBERTS. Mr. Chairman, I wish to associate myself with the remarks of the gentleman from Texas [Mr. DE LA GARZA], and make the observation that there has been no stronger supporter of the U.S. merchant marine than the gentlewoman from Maryland [Mrs. BENTLEY].

Many times in the past, Mr. Chairman, we have disagreed with regard to policy issues, but her support for the U.S. merchant marine has never wavered; not that she has been unfriendly to the American farmer. I want to thank her for her service, for her dedicated leadership, and there has never been quite a fighter like the gentlewoman from Maryland on behalf of her constituency.

Mr. CARDIN. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Maryland.

Mr. CARDIN. Mr. Chairman, I also want to join in the strong commendation of my colleague, the gentlewoman from Maryland [Mrs. BENTLEY], and her work for the merchant marine and for this Nation. She has done a great job in supporting the merchant marine. She is going to be sorely missed in this Chamber next year for her strong advocacy for U.S. interests. I really wanted to take the time to thank her for her long service on behalf of the people of her district.

Mr. STUDDS. Mr. Chairman, I rise in support of the statement of the gentlelady from Maryland.

Last October, the New York Times ran a series that was highly critical of the Agriculture Department's export policies. The allegations in the Times exposé raise a number of questions on the beneficiaries of American agriculture export assistance programs.

It turns out a surprising number of USDA recipients are actually foreign-owned companies. There is something fundamentally wrong with Government policy when we can't support U.S. maritime companies that transport our troops and supplies to war and U.S. goods during peacetime, but can allow billions of dollars to subsidize foreign agricultural conglomerates.

While we are not debating USDA export policy today, we should take a long and hard look at this issue when we consider next year's farm bill. I look forward to working with the distinguished chairman of the Agriculture Committee on that bill.

AMENDMENT OFFERED BY MR. KREIDLER

Mr. KREIDLER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KREIDLER: Page 34, line 8 after "safety" insert

"...including responsibilities under the Federal Meat Inspection Act and the Poultry Products Inspection Act. Until such time as the Under Secretary establishes, based on the best available scientific and technologic data, levels of pathogens that constitute a threat to human health in meat and poultry, and prohibits or restricts the sale of meat and meat products and poultry and poultry products that exceed these levels, no official inspection seal shall be applied to such products that states that the product has been inspected for wholesomeness or inspected and approved, nor shall the Department of Agriculture print or distribute any educational material that suggests that meat and poultry has been inspected in a manner designed to protect human health by limiting bacterial contamination".

Mr. KREIDLER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. KREIDLER. Mr. Chairman, last year three children died in Washington State because a batch of Government-approved hamburger was contaminated with a deadly microscopic organism known as E. coli 0157:H7.

That was only one of 20 E. coli outbreaks reported in 1993, with 11 more deaths. Another 25 outbreaks, and at least 4 deaths, have been reported so far this year, in Oregon, Minnesota, California, Nebraska, North Carolina, Vermont, North Dakota, Ohio, Massachusetts, New York, Connecticut, Hawaii, New Jersey, Florida, Pennsylvania, Montana, Wisconsin, and Alabama.

E. coli may be the most dangerous pathogen in meat and poultry, but it is also rare. Much more common are pathogens like salmonella, listeria, and others we have all heard too much about. They are the greatest threat to the safety of meat and poultry.

These microbes can be kept to a minimum with proper processing techniques, backed up by an inspection system based on science. Today's system can deal only with what inspectors can see and feel. For half a billion dollars a year, the American consumer deserves more.

This amendment specifies that the Under Secretary for Food Safety is responsible for meat and poultry inspection, and it prohibits the use of the USDA inspection seal, which implies that inspected meat and poultry is wholesome and safe, until the Department has brought the inspection system into the modern era.

That means setting limits on pathogen levels, based on the best available scientific information.

The Pathogen Reduction Act, which the gentleman from Texas [Mr. STENHOLM] has introduced at the request of the administration, requires USDA to set and enforce pathogen limits. This amendment does not incorporate that complex proposal, but this amendment

prohibits the use of the USDA seal of approval until we have an inspection system that deals with this growing threat. I think that is the least we can do.

I understand the need to consider the Pathogen Reduction Act fully, and I believe the chairman is committed to do so early in the next Congress. Meanwhile, I urge the adoption of this amendment so that consumers are no longer misled by the USDA seal when they buy meat and poultry.

□ 1600

Mr. STENHOLM. Mr. Chairman, I rise in opposition to the amendment of the gentleman today.

Mr. Chairman, again it is not that I do not agree with the basic thrust of the amendment because the gentleman has correctly pointed out that we have introduced legislation last week that encompasses a good portion, in fact perhaps would be construed as being much stronger than the gentleman's amendment today.

The difficulty we have with the gentleman's amendment today is as I mentioned, we got the bill from the administration last week. We are currently trying to see if we can reach some agreement and accommodation that can get something done this year in legislation.

This piece of legislation today is not the time and the place for us to consider this amendment. What we need to do, and the gentleman was correct in his earlier statement. In fact, we not only have introduced legislation in our committee but we are actively working to see what can be done to move forward the pathogen problem and come up with a constructive solution that we can in turn interject into our meat and poultry system so that in fact we do begin testing for pathogens in our meat and poultry supply.

The difficulty and why I say I must reluctantly rise in opposition, and I would ask the gentleman to consider perhaps withdrawing his amendment today, with the full assurances that not only are we sympathetic, we have introduced legislation last week and we will actively begin working for purposes of seeing how we might do it. This is not the time and the place. But I would hope that with this assurance, the gentleman may consider withdrawing his amendment today. If so, I would certainly look forward to working with him in solving a very real problem.

Mr. KREIDLER. Mr. Chairman, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from Washington.

Mr. KREIDLER. Mr. Chairman, I thank the gentleman for yielding. I thank him and very much appreciate the comments of the chairman of the subcommittee relative to his commitment to address this issue. This is an issue of deep and abiding concern par-

ticularly to my State that has grievously suffered at the expense of undercooked hamburger that has been contaminated by E. coli. We are very interested in my State as indeed I believe the whole country is that we make sure our poultry and meat supply is as safe as possible. It is not my desire as a member of this body to slow down the process or complicate the work of this committee or from the standpoint of making sure that the USDA moves forward as aggressively and forcefully as possible.

With that understanding, I will take the request or the suggestion that has been offered to me by the gentleman from Texas.

Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN pro tempore (Mr. MURPHY). Is there objection to the request of the gentleman from Washington?

There was no objection.

The CHAIRMAN pro tempore. The amendment is withdrawn.

Mr. STENHOLM. Briefly, Mr. Chairman, reclaiming my time, I thank the gentleman for withdrawing the amendment and look forward to working with him in a constructive solution to the very real problem that he has highlighted today in this discussion.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from Texas, the chairman of the committee.

Mr. DE LA GARZA. Mr. Chairman, I also rise to thank the gentleman and commend him for his energetic and vigorous pursuing of this issue. We will work with him diligently and we will appreciate his input into the process as we work in this area and commend him for all the work that he has done. The people of his area and his district should be proud of the vigorous manner in which he has pursued this issue.

The CHAIRMAN pro tempore. Are there further amendments to the bill?

Mr. DE LA GARZA. Mr. Chairman, I move to strike the last word, and I yield to my colleague, the gentleman from New Jersey [Mr. TORRICELLI].

Mr. TORRICELLI. Mr. Chairman, I sought recognition to enter into a colloquy with the gentleman from Texas [Mr. STENHOLM], the chairman of the subcommittee, if I might.

Mr. Chairman, last January I introduced into the House the Katie O'Connell Safe Food Act, comprehensive legislation designed to revamp and modernize our meat and poultry inspection system. A key provision of the bill is to move the meat and poultry inspection from the Department of Agriculture to an independent agency.

The USDA as he knows is charged with the dual goals of promoting and policing agricultural products. I strongly believe that this is an inherent conflict of interest. Meat and poul-

try inspections should be viewed as a public health concern, not as a business concern. I have strong doubts that the USDA's top priority is public health if it is also promoting sales.

Apparently Vice President GORE and his commission shared this view and recommended moving meat and poultry inspection to the Food and Drug Administration in his Reinventing Government report.

Today I came to the floor with the intention of offering an amendment to move this function from the USDA to the FDA. However, I am persuaded that a move of this nature needs more extensive study. Because I have particular confidence in the gentleman from Texas [Mr. STENHOLM] and the relevant committees involved, I am seeking his assurance the subcommittee will further study the ramifications of this move and hold hearings on the subject in the next Congress so we might consider my recommendations and legislation with some confidence.

Mr. STENHOLM. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Texas.

Mr. STENHOLM. Mr. Chairman, I appreciate very much all of the gentleman's efforts on this issue and share many of his concerns. Recognizing the need to separate meat and poultry inspection and other food safety obligations from marketing and promotion type responsibilities within USDA, this bill today creates a new Undersecretary for Food Safety, elevating and keeping completely separate all food safety activities within the Department. This approach represents a fundamental shift in the way USDA does business, one which the Committee on Agriculture believes is the most immediate, appropriate and effective way to address this concern. In our effort to improve the current system, the Committee on Agriculture has had numerous hearings concerning USDA's meat and poultry inspection system and will continue to have an interest in ensuring the safety of our Nation's food supply with future hearings. I look forward to working with the gentleman.

Mr. TORRICELLI. Mr. Chairman, I want to thank the gentleman from Texas [Mr. STENHOLM] for his cooperation in this matter. I also want to thank the families of all the E. coli victims who have worked to write the Katie O'Connell Act and I look forward in the next Congress to working with him in finding a comprehensive solution. I would also like to express my keen interest in the Pathogen Reduction Act which the gentleman introduced recently. I would appreciate it if he could briefly summarize the legislation that he has offered.

Mr. STENHOLM. In general terms, the bill would provide broad authority for the Secretary to issue regulations requiring testing for the presence of

pathogens, establish acceptable levels for pathogens, provide mandatory recall and trace-back authority, and impose civil penalties. I fully intend to review this legislation in my subcommittee—in fact, we have already begun the process—and work with the gentleman and all interested parties in moving a bill next Congress that most appropriately addresses our mutual concerns.

Mr. TORRICELLI. Mr. Chairman, I want to thank the gentleman for his explanations and his commitment. I look forward to working with him in the next Congress, and I have complete confidence that under his leadership, we will be able to move forward the issue of food safety. I also want to thank the gentleman from Texas [Mr. DE LA GARZA], the chairman of the committee, for yielding me this time and for his support and cooperation.

AMENDMENTS OFFERED BY MR. DE LA GARZA

Mr. DE LA GARZA. Mr. Chairman, I offer amendments, and I ask unanimous consent for them to be considered en bloc.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN pro tempore. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. DE LA GARZA:

Page 2, after line 7, in the table of contents of the bill, strike "External affairs" in the item relating to section 106" and insert "External Affairs".

Page 9, line 2, insert after the period the following new sentence: "Reductions in the number of full-time equivalent positions within the Department achieved under section 5 of the Federal Workforce Restructuring Act of 1994 (Public Law 103-226; 108 Stat. 115; 5 U.S.C. 3101 note) shall be counted toward the employee reductions required under this section."

Strike section 105 of the bill (page 9, line 20, through page 10, line 2) relating to improvement of information sharing and insert the following new section:

**SEC. 105. IMPROVEMENT OF INFORMATION SHARING.**

Whenever the Secretary procures or uses computer systems, as may be provided for in advance in appropriations Acts, the Secretary shall do so in a manner that enhances efficiency, productivity, and client services and is consistent with the goal of promoting computer information sharing among agencies of the Department.

Page 19, line 8, add at the end the following new sentence: "In the case of a county committee in existence on the date of the enactment of the Department of Agriculture Reorganization Act of 1994, the Secretary may not terminate the county committee, alter the boundaries of the area covered by the committee, or consolidate the committee with other county committees, without the consent of a majority of the producers in the area covered by the committee, as determined in a referendum conducted by the Secretary."

Page 20, line 21, insert after the period the following new sentences: "Pursuant to such regulations, each county and area committee

shall select an executive director for the area or county. Such selection shall be made in the same manner as provided for the selection of the county executive director under section 7.21(b)(2) of title 7, Code of Federal Regulations, as in effect on January 1, 1994."

Page 47, after line 15, add the following new section (and redesignate subsequent sections accordingly):

**SEC. 805. FAIR AND EQUITABLE TREATMENT OF SOCIALLY DISADVANTAGED PRODUCERS.**

(a) FAIR CROP ACREAGE BASES AND FARM PROGRAM PAYMENT YIELDS.—If the Secretary of Agriculture determines that crop acreage bases or farm program payment yields established for farms owned or operated by socially disadvantaged producers are not established in accordance with title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.), the Secretary shall adjust the bases and yields to conform to the requirements of such title and make available any appropriate commodity program benefits.

(b) FAIR APPLICATION OF CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—If the Secretary of Agriculture determines that application of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) with respect to socially disadvantaged producers is not consistent with the requirements of such Act, the Secretary shall make such changes in the administration of such Act as the Secretary considers necessary to provide for the fair and equitable treatment of socially disadvantaged producers under such Act.

(c) REPORT ON TREATMENT OF SOCIALLY DISADVANTAGED PRODUCERS.—

(1) REPORT REQUIRED.—The Comptroller General of the United States shall prepare a report to determine—

(A) whether socially disadvantaged producers are underrepresented on State, county, or local committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) or local review committees established under section 363 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1363) because of racial, ethnic, or gender prejudice; and

(B) if such underrepresentation exists, whether it inhibits or interferes with the participation of socially disadvantaged producers in programs of the Department of Agriculture.

(2) SUBMISSION OF REPORT.—Not later than February 1, 1995, the Comptroller General shall submit the report required by this subsection to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(d) DEFINITION.—For purposes of this section, the term "socially disadvantaged producer" means a producer who is a member of a group whose members have been subjected to racial, ethnic, or gender prejudice because of their identity as members of a group without regard to their individual qualities.

Page 3, line 9, strike "section 102" and insert "section 802".

Strike section 102 of the bill (page 7, line 16, through page 8, line 20) relating to the National Appeals Division (and redesignate subsequent sections accordingly).

Page 34, after line 19, add the following new title (and redesignate the subsequent title accordingly):

**TITLE VIII—NATIONAL APPEALS DIVISION**  
**SEC. 801. DEFINITIONS.**

For purposes of this title:

(1) ADVERSE DECISION.—The term "adverse decision" means an administrative decision made by an officer, employee, or committee of an agency that is adverse to a participant. The term includes a denial of equitable relief by an agency or the failure of an agency to issue a decision or otherwise act on the request or right of the participant. The term does not include a decision over which the Board of Contract Appeals has jurisdiction.

(2) AGENCY.—The term "agency" means any agency of the Department designated by the Secretary or a successor agency of the Department, except that the term shall include the following (and any successor to the following):

- (A) The Agricultural Service Agency.
- (B) The Commodity Credit Corporation, with respect to domestic programs.
- (C) The Farmers Home Administration.
- (D) The Federal Crop Insurance Corporation.
- (E) The Rural Development Administration.
- (F) The Soil Conservation Service.

(G) A State, county, or area committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)).

(3) APPELLANT.—The term "appellant" means a participant who appeals an adverse decision in accordance with this title.

(4) CASE RECORD.—The term "case record" means all the materials maintained by the Secretary related to an adverse decision.

(5) DIRECTOR.—The term "Director" means the Director of the Division.

(6) DIVISION.—The term "Division" means the National Appeals Division established by this title.

(7) HEARING OFFICER.—The term "hearing officer" means an individual employed by the Division who hears and determines appeals of adverse decisions by any agency.

(8) PARTICIPANT.—The term "participant" means any individual, partnership, corporation, association, cooperative, or other entity whose application for, or right to participate in or receive, payments or loans in accordance with any of the programs administered by an agency is affected by an adverse decision of an agency.

**SEC. 802. NATIONAL APPEALS DIVISION AND DIRECTOR.**

(a) ESTABLISHMENT OF DIVISION.—The Secretary shall establish and maintain an independent National Appeals Division within the Department to carry out this title.

(b) DIRECTOR.—

(1) APPOINTMENT.—The Division shall be headed by a Director, appointed by the Secretary from among persons who have substantial experience in practicing administrative law. In considering applicants for the position of Director, the Secretary shall consider persons currently employed outside Government as well as Government employees.

(2) TERM AND REMOVAL.—The Director shall serve for a 6-year term of office, and shall be eligible for reappointment. The Director shall not be subject to removal during the term of office, except for cause established in accordance with law.

(3) POSITION CLASSIFICATION.—The position of the Director may not be a position in the excepted service or filled by a noncareer appointee.

(c) DIRECTION, CONTROL, AND SUPPORT.—The Director shall be free from the direction and control of any person other than the Secretary. The Division shall not receive administrative support (except on a reimbursable basis) from any agency other than the

Office of the Secretary. The Secretary may not delegate to any other officer or employee of the Department, other than the Director, the authority of the Secretary with respect to the Division.

(d) **DETERMINATION OF APPEALABILITY OF AGENCY DECISIONS.**—If an officer, employee, or committee of an agency determines that a decision is not appealable and a participant appeals the decision to the Director, the Director shall determine whether the decision is adverse to the individual participant and thus appealable or is a matter of general applicability and thus not subject to appeal. The determination of the Director as to whether a decision is appealable shall be administratively final.

(e) **DIVISION PERSONNEL.**—The Director shall appoint such hearing officers and other employees as are necessary for the administration of the Division. A hearing officer or other employee of the Division shall have no duties other than those that are necessary to carry out this title.

#### SEC. 803. TRANSFER OF FUNCTIONS.

There are transferred to the Division all functions exercised and all administrative appeals pending before the effective date of this title (including all related functions of any officer or employee) of or relating to—

(1) the National Appeals Division established by section 426(c) of the Agricultural Act of 1949 (7 U.S.C. 1433e(c)) (as in effect on the day before the date of the enactment of this Act);

(2) the National Appeals Division established by subsections (d) through (g) of section 333B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983b) (as in effect on the day before the date of the enactment of this Act);

(3) appeals of decisions made by the Federal Crop Insurance Corporation; and

(4) appeals of decisions made by the Soil Conservation Service.

#### SEC. 804. NOTICE AND OPPORTUNITY FOR HEARING.

Not later than 10 working days after an adverse decision is made that affects the participant, the Secretary shall provide the participant with the written notice of such adverse decision and the rights available to the participant under this title or other law for the review of such adverse decision.

#### SEC. 805. INFORMAL HEARINGS.

If an officer, employee, or committee of an agency makes an adverse decision, the agency shall hold, at the request of the participant, an informal hearing on the decision. With respect to programs carried out through the Agricultural Service Agency, the Secretary shall maintain the informal appeals process applicable to such programs, as in effect on the date of the enactment of the title. If a mediation program is available under title V of the Agricultural Credit Act of 1987 (7 U.S.C. 5101 et seq.) as a part of the informal hearing process, the participant shall be offered the right to choose such mediation.

#### SEC. 806. RIGHT OF PARTICIPANTS TO DIVISION HEARING.

(a) **APPEAL TO DIVISION FOR HEARING.**—Subject to subsection (b), a participant shall have the right to appeal an adverse decision to the Division for an evidentiary hearing by a hearing officer consistent with section 807.

(b) **TIME FOR APPEAL.**—To be entitled to a hearing under section 807, a participant shall request the hearing not later than 30 days after the date on which the participant first received notice of the adverse decision.

#### SEC. 807. DIVISION HEARINGS.

(a) **GENERAL POWERS OF DIRECTOR AND HEARING OFFICERS.**—

(1) **ACCESS TO CASE RECORD.**—The Director and hearing officer shall have access to the case record of any adverse decision appealed to the Division for a hearing.

(2) **ADMINISTRATIVE PROCEDURES.**—The Director and hearing officer shall have the authority to require the attendance of witnesses, and the production of evidence, by subpoena and to administer oaths and affirmations. Except to the extent required for the disposition of ex parte matters as authorized by law—

(A) an interested person outside the Division shall not make or knowingly cause to be made to the Director or a hearing officer who is or may reasonably be expected to be involved in the evidentiary hearing or review of an adverse decision, an ex parte communication (as defined in section 551(14) of title 5, United States Code) relevant to the merits of the proceeding;

(B) the Director and such hearing officer shall not make or knowingly cause to be made to any interested person outside the Division an ex parte communication relevant to the merits of the proceeding.

(b) **TIME FOR HEARING.**—Upon a timely request for a hearing under section 806(b), an appellant shall have the right to have a hearing by the Division on the adverse decision within 45 days after the date of the receipt of the request for the hearing.

(c) **LOCATION AND ELEMENTS OF HEARING.**—

(1) **LOCATION.**—A hearing on an adverse decision shall be held in the State of residence of the appellant or at a location that is otherwise convenient to the appellant and the Division.

(2) **EVIDENTIARY HEARING.**—The evidentiary hearing before a hearing officer shall be in person, unless the appellant agrees to a hearing by telephone or by a review of the case record. The hearing officer shall not be bound by previous findings of fact by the agency in making a determination.

(3) **INFORMATION AT HEARING.**—The hearing officer shall consider information presented at the hearing without regard to whether the evidence was known to the agency officer, employee, or committee making the adverse decision at the time the adverse decision was made. The hearing officer shall leave the record open after the hearing for a reasonable period of time to allow the submission of information by the appellant or the agency after the hearing to the extent necessary to respond to new facts, information, arguments, or evidence presented or raised by the agency or appellant.

(4) **BURDEN OF PROOF.**—The appellant shall bear the burden of proving that the adverse decision of the agency was erroneous.

(d) **DETERMINATION NOTICE.**—The hearing officer shall issue a notice of the determination on the appeal not later than 30 days after a hearing or after receipt of the request of the appellant to waive a hearing, except that the Director may establish an earlier or later deadline. If the determination is not appealed to the Director for review under section 808, the notice provided by the hearing officer shall be considered to be a notice of final determination.

(e) **EFFECTIVE DATE.**—The final determination shall be effective as of the date of filing of an application, the date of the transaction or event in question, or the date of the original adverse decision, whichever is applicable.

#### SEC. 808. DIRECTOR REVIEW OF DETERMINATIONS OF HEARING OFFICERS.

(a) **REQUESTS FOR DIRECTOR REVIEW.**—

(1) **TIME FOR REQUEST BY APPELLANT.**—Not later than 30 days after the date on which an appellant receives the determination of a

hearing officer under section 807, the appellant shall submit a written request to the Director for review of the determination in order to be entitled to a review by the Director of the determination.

(2) **TIME FOR REQUEST BY AGENCY HEAD.**—Not later 15 business days after the date on which an agency receives the determination of a hearing officer under section 807, the head of the agency may make a written request that the Director review the determination.

(b) **DETERMINATION OF DIRECTOR.**—The Director shall conduct a review of the determination of the hearing officer using the case record, the record from the evidentiary hearing under section 807, the request for review, and such other arguments or information as may be accepted by the Director. Based on such review, the Director shall issue a final determination notice that upholds, reverses, or modifies the determination of the hearing officer. However, if the Director determines that the hearing record is inadequate, the Director may remand all or a portion of the determination for further proceedings to complete the hearing record or, at the option of the Director, to hold a new hearing. The Director shall complete the review and either issue a final determination or remand the determination not later than—

(1) 10 business days after receipt of the request for review, in the case of a request by the head of an agency for review; or

(2) 30 business days after receipt of the request for review, in the case of a request by an appellant for review.

(c) **EQUITABLE RELIEF.**—Subject to regulations issued by the Secretary, the Director shall have the authority to grant equitable relief under this section in the same manner and to the same extent as such authority is provided to the Secretary under section 326 of the Food and Agriculture Act of 1962 (7 U.S.C. 1339a) and other laws. Notwithstanding the administrative finality of a final determination of an appeal by the Division, the Secretary shall have the authority to grant equitable or other types of relief to the appellant after a final determination is issued by the Division.

(d) **EFFECTIVE DATE.**—A final determination issued by the Director shall be effective as of the date of filing of an application, the date of the transaction or event in question, or the date of the original adverse decision, whichever is applicable.

#### SEC. 809. JUDICIAL REVIEW.

A final determination of the Division shall be reviewable and enforceable by any United States district court of competent jurisdiction in accordance with chapter 7 of title 5, United States Code.

#### SEC. 810. IMPLEMENTATION OF FINAL DETERMINATIONS OF DIVISION.

On the return of a case to an agency pursuant to the final determination of the Division, the head of the agency shall implement the final determination not later than 30 days after the effective date of the notice of the final determination.

#### SEC. 811. CONFORMING AMENDMENTS RELATING TO NATIONAL APPEALS DIVISION.

(a) **DECISIONS OF STATE, COUNTY, AND AREA COMMITTEES.**—

(1) **APPLICATION OF SUBSECTION.**—This subsection shall apply only with respect to functions of the Agricultural Service Agency or the Commodity Credit Corporation that are under the jurisdiction of a State, county, or area committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) or an employee of such a committee.

(2) FINALITY.—Each decision of a State, county, or area committee (or an employee of such a committee) covered by paragraph (1) that is made in good faith in the absence of misrepresentation, false statement, fraud, or willful misconduct shall be final not later than 90 days after the date of filing of the application for benefits, unless the decision is—

(A) appealed under this title; or

(B) modified by the Administrator of the Agricultural Service Agency or the Executive Vice President of the Commodity Credit Corporation.

(3) RECOVERY OF AMOUNTS.—If the decision of the State, county, or area committee has become final under paragraph (2), no action may be taken by the Agricultural Service Agency, the Commodity Credit Corporation, or a State, county, or area committee to recover amounts found to have been disbursed as a result of a decision in error unless the participant had reason to believe that the decision was erroneous.

(b) AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE.—Section 426 of the Agricultural Act of 1949 (7 U.S.C. 1433e) is repealed.

(c) FARMERS HOME ADMINISTRATION.—Section 333B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983b) is repealed.

(d) FEDERAL CROP INSURANCE CORPORATION.—The last sentence of section 508(f) of the Federal Crop Insurance Act (7 U.S.C. 1508(f)) is amended by inserting before the period at the end the following: "or within 1 year after the claimant receives a final determination notice from an administrative appeal made in accordance with title VIII of the Department of Agriculture Reorganization Act of 1994, whichever is later".

#### SEC. 812. EXPANSION OF ISSUES COVERED BY STATE MEDIATION PROGRAMS.

(a) EXPANSION OF MEDIATION PROGRAMS.—Section 501 of the Agricultural Credit Act of 1987 (7 U.S.C. 5101) is amended—

(1) in subsection (a), by striking "an agricultural loan mediation program" and inserting "a mediation program";

(2) in subsection (b), by striking "agricultural loan"; and

(3) by striking subsection (c) and inserting the following new subsection:

"(c) REQUIREMENTS OF STATE MEDIATION PROGRAMS.—

"(1) ISSUES COVERED.—To be certified as a qualifying State, the mediation program of the State must provide mediation services for the persons described in paragraph (2) who are involved in agricultural loans or agricultural loans and one or more of the following issues under the jurisdiction of the Department of Agriculture:

"(A) Wetlands determinations.

"(B) Compliance with farm programs, including conservation programs.

"(C) Agricultural credit.

"(D) Rural water loan programs.

"(E) Grazing on National Forest System lands.

"(F) Pesticides.

"(G) Such other issues as the Secretary considers appropriate.

"(2) PERSONS ELIGIBLE FOR MEDIATION.—The persons referred to in paragraph (1) are producers, their creditors (if applicable), and other persons directly affected by actions of the Department of Agriculture.

"(3) CERTIFICATION CONDITIONS.—The Secretary shall certify a State as a qualifying State with respect to the issues proposed to be covered by the mediation program of the State if the mediation program—

"(A) provides for mediation services that, if decisions are reached, result in mediated, mutually agreeable decisions between the parties to the mediation;

"(B) is authorized or administered by an agency of the State government or by the Governor of the State;

"(C) provides for the training of mediators;

"(D) provides that the mediation sessions shall be confidential;

"(E) ensures, in the case of agricultural loans, that all lenders and borrowers of agricultural loans receive adequate notification of the mediation program; and

"(F) ensures, in the case of other issues covered by the mediation program, that persons directly affected by actions of the Department of Agriculture receive adequate notification of the mediation program."

(b) PARTICIPATION OF DEPARTMENT.—Section 503 of such Act (7 U.S.C. 5103) is amended—

(1) by striking "agricultural loan" each place it appears;

(2) in the matter preceding subparagraph (A) of subsection (a)(1)—

(A) by inserting "or agency" after "program"; and

(B) by striking "that makes, guarantees, or insures agricultural loans";

(3) in subsection (a)(1)(A)—

(A) by inserting "or agency" after "such program"; and

(B) by inserting "certified under section 501" after "mediation program";

(4) in subsection (a)(1)(B)—

(A) by striking ", effective beginning on the date of the enactment of this Act."; and

(B) by inserting "certified under section 501" after "mediation programs"; and

(5) in subsection (a)(1)(C)—

(A) in clause (i), by striking "described in" and inserting "certified under"; and

(B) in clause (ii), by inserting "if applicable," before "present".

(c) REGULATIONS.—Section 504 of such Act (7 U.S.C. 5104) is amended—

(1) by striking "Within 150 days after the date of the enactment of this Act, the" and inserting "The"; and

(2) by adding at the end the following new sentence: "The regulations prescribed by the Secretary shall require qualifying States to adequately train mediators to address all of the issues covered by the mediation program of the State."

(d) REPORT.—Section 505 of such Act (7 U.S.C. 5105) is amended by striking "1990" and inserting "1998".

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 506 of such Act (7 U.S.C. 5106) is amended by striking "1995" and inserting "2000".

(f) CONFORMING AMENDMENTS.—

(1) REFERENCES TO AGRICULTURAL LOANS.—Subtitle A of title V of such Act is amended—

(A) in sections 502 and 505(1) (7 U.S.C. 5102, 5105(1)), by striking "agricultural loan" each place it appears; and

(B) in section 505(3) (7 U.S.C. 5105(3)), by striking "an agricultural loan mediation" and inserting "a mediation".

(2) WAIVER OF FARM CREDIT SYSTEM MEDIATION RIGHTS BY BORROWERS.—Section 4.14E of the Farm Credit Act of 1971 (12 U.S.C. 2202e) is amended by striking "agricultural loan".

(3) WAIVER OF FMHA MEDIATION RIGHTS BY BORROWERS.—Section 358 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006) is amended by striking "agricultural loan".

Add at the end of title VIII, after line 3 on page 52, the following new section:

#### SEC. PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased using funds made available pursuant to this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available pursuant to this Act, the Secretary, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

Page 9, line 12 after "Department" strike "to" and insert ", where practicable and to the extent consistent with efficiency, effectiveness, and service to farmers, to".

#### SEC. CONDITIONS ON IMPLEMENTATION OF ALTERNATION IN LEVEL OF SELENIUM ALLOWED IN ANIMAL DIETS.

(a) CONDITIONS.—The Food and Drug Administration shall not implement or enforce the final rule described in subsection (b) to alter the level of selenium allowed to be used as a supplement in animal diets unless the Commissioner of the Food and Drug Administration makes a determination that—

(1) selenium additives are not essential, at levels authorized in the absence of such final rule, to maintain animal nutrition and protect animal health;

(2) selenium at such levels is not safe to the animals consuming the additive;

(3) selenium at such levels is not safe to individuals consuming edible portions of animals that receive the additive;

(4) selenium at such levels does not achieve its intended effect of promoting normal growth and reproduction of livestock and poultry; and

(5) the manufacture and use of selenium at such levels cannot reasonably be controlled by adherence to current good manufacturing practice requirements.

(b) FINAL RULE DESCRIBED.—The final rule referred to in subsection (a) is the final rule issued by the Food and Drug Administration and published in the Federal Register on September 13, 1993 (58 Fed. Reg. 47962), in which the Administration stayed 1987 amendments to the selenium food additive regulations, and any modification of such rule issued after the date of the enactment of this Act.

Mr. DE LA GARZA (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. DE LA GARZA. Mr. Chairman, I yield to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, we do have back in my community, in my district, quite a presence of farmers. They have continuously expressed support for the bills of the gentleman from Texas, the chairman of the committee. I appreciate the fact that he has included my amendment and is looking at the plight of farmers in the trade issues facing our Nation. I thank the chairman for including my amendment in the en bloc amendments.

Mr. DE LA GARZA. Mr. Chairman, the en bloc amendments include clarifying

the process for computer purchases at USDA, the local farmer committees keep the authority to hire an executive director, that committees could not merge unless farmers vote, socially disadvantaged farmers, the National Appeals Division which modernizes it, technical conforming amendments, and the amendment mentioned by the gentleman from Ohio [Mr. TRAFICANT] to buy American equipment.

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Mr. ROBERTS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the chairman's en bloc amendment and wish Members to understand that I know of no other amendments to be offered. So with the completion of the chairman's en bloc amendment I also wish to inform Members that it is not the intention of the minority to call for a recorded vote on final passage. I will yield to the chairman so that he may indicate if that would be his desire as well. Is that what the chairman feels would be the wisest course of action in here?

Mr. DE LA GARZA. If the gentleman will yield, that is always the wisest course to take.

Mr. ROBERTS. I thank the gentleman for his contribution.

I want to say one other thing, Mr. Chairman, I want to thank the chairman for his help, and I want to thank the gentleman from Texas [Mr. STENHOLM] and all of the Members of the majority side and the minority and the House Committee on Agriculture. We have some strong differences of opinion on this bill, and I hope all of the things the chairman and the gentleman from Texas [Mr. STENHOLM] have said will certainly turn out to be accurate, and all of the concerns that we have raised perhaps we can work on.

I do have one other final concern. About 2 months ago when we were considering the reorganization bill, an unfortunate situation happened at the Department of Agriculture, and I am going to make a brief mention of this because I do not want it to happen again. We have many research grants at the Department of Agriculture with the Cooperative State Research Service, the CSRS. These are our land grant schools. These are very valuable research grants that go to graduate students and fund a great deal of agricultural research.

To influence votes on the reorganization bill there was a political hold placed on these research grants, some 350 of them, and an additional warning that 800, 800 of these grants would be under a political hold. It was to influence votes, or at least to try to stir action or to be a catalyst for action on the USDA reorganization bill.

It influenced this Member all right. I really think that this action was unprecedented. It dealt with last year's

appropriations, not this year's, and it was not necessary. Quite frankly, it was bush league.

I could go on into considerably more detail, but after consideration by myself, the Department of Agriculture and the gentleman from Oregon [Mr. SMITH], the political hold was lifted. I would hope that in any future debate, whether it be crop insurance reform, or USDA reorganization, or a farm bill, or GATT, or anything, that this kind of action would not be necessary. The P.S. that I put on the letter to Secretary Espy was at any time he could come by my office and discuss any kind of a bill, regardless of our differences, and this kind of action simply was not needed, and it put a lot of people in a very difficult position, and again, it was not necessary.

I think we see today with only one recorded vote on the USDA reorganization that even though we have strong differences of opinion, the Committee on Agriculture will work together, we will always work together.

Again, I appreciate the chairman's leadership in this regard and I support his en bloc amendment.

The CHAIRMAN pro tempore (Mr. MURPHY). The question is on the amendments offered by the gentleman from Texas [Mr. DE LA GARZA].

The amendments were agreed to.

The CHAIRMAN pro tempore. Are there further amendments to the bill?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. McDERMOTT) having assumed the chair, Mr. MURPHY, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3171) to authorize the Secretary of Agriculture to reorganize the Department of Agriculture, and for other purposes, pursuant to House Resolution 544, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole?

If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the

third time, and passed, and a motion to reconsider was laid on the table.

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1970) to authorize the Secretary of Agriculture to reorganize the Department of Agriculture, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

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

There was no objection.

The text of the Senate bill is as follows:

S. 1970

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Department of Agriculture Reorganization Act of 1994".

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

Sec. 1. Short title; table of contents.

Sec. 2. Purpose.

Sec. 3. Definitions.

**TITLE I—GENERAL AUTHORITIES OF THE SECRETARY**

Sec. 101. Delegation of functions to the Secretary.

Sec. 102. Reorganization.

Sec. 103. Personnel reductions.

Sec. 104. Consolidation of headquarters offices.

Sec. 105. Reports by the Secretary.

**TITLE II—NATIONAL APPEALS DIVISION**

Sec. 201. Definitions.

Sec. 202. National Appeals Division and Director.

Sec. 203. Transfer of functions.

Sec. 204. Personnel of the Division.

Sec. 205. Notice and opportunity for hearing.

Sec. 206. Informal hearings.

Sec. 207. Rights of participants.

Sec. 208. Division hearings and Director review.

Sec. 209. Judicial review.

Sec. 210. Implementation of final determinations of Division.

Sec. 211. Decisions of State and county committees.

Sec. 212. Prohibition on adverse action while appeal is pending.

Sec. 213. Relationship to other laws.

Sec. 214. Evaluation of agency decisionmakers and other employees.

Sec. 215. Conforming amendments.

**TITLE III—FARM AND INTERNATIONAL TRADE SERVICES**

Sec. 301. Under Secretary for Farm and International Trade Services.

Sec. 302. Farm Service Agency.

Sec. 303. State and county committees.

Sec. 304. International Trade Service.

**TITLE IV—RURAL ECONOMIC AND COMMUNITY DEVELOPMENT**

Sec. 401. Under Secretary for Rural Economic and Community Development.

Sec. 402. Rural Utilities Service.

Sec. 403. Rural Housing and Community Development Service.

Sec. 404. Rural Business and Cooperative Development Service.

**TITLE V—FOOD, NUTRITION, AND  
CONSUMER SERVICES**

- Sec. 501. Under Secretary of Agriculture for Food, Nutrition, and Consumer Services.  
Sec. 502. Food and Consumer Service.  
Sec. 503. Nutrition Research and Education Service.

**TITLE VI—NATURAL RESOURCES AND  
ENVIRONMENT**

- Sec. 601. Natural Resources Conservation Service.  
Sec. 602. Reorganization of Forest Service.

**TITLE VII—MARKETING AND  
INSPECTION SERVICES**

- Sec. 701. Grain Inspection, Packers and Stockyards Administration.

**TITLE VIII—RESEARCH, ECONOMICS,  
AND EDUCATION**

- Sec. 801. Federal Research and Information Service.  
Sec. 802. Cooperative State Research and Education Service.  
Sec. 803. Agricultural Economics and Statistics Service.  
Sec. 804. Program Policy and Coordination Staff.

**TITLE IX—FOOD SAFETY**

- Sec. 901. Food Safety Service.

**TITLE X—MISCELLANEOUS**

- Sec. 1001. Assistant Secretaries of Agriculture.  
Sec. 1002. Removal of obsolete provisions.  
Sec. 1003. Additional conforming amendments.  
Sec. 1004. Termination of authority.  
Sec. 1005. Elimination of duplicative inspection requirements.

**SEC. 2. PURPOSE.**

The purpose of this Act is to provide the Secretary of Agriculture with the necessary authority to streamline and reorganize the Department of Agriculture to achieve greater efficiency, effectiveness, and economies in the organization and management of the programs and activities carried out at the Department.

**SEC. 3. DEFINITIONS.**

As used in this Act (unless the context clearly requires otherwise):

- (1) **ADMINISTRATIVE UNIT.**—The term "administrative unit" includes—  
(A) any office, administration, agency, institute, unit, or organizational entity, or component thereof, except that the term does not include a corporation; and  
(B) any county, State, or area committee, as established by the Secretary.  
(2) **DEPARTMENT.**—The term "Department" means the United States Department of Agriculture.  
(3) **FUNCTION.**—The term "function" means an administrative, financial, or regulatory duty of an administrative unit or employee of the Department, including a transfer of funds made available to carry out a function of an administrative unit.  
(4) **SECRETARY.**—The term "Secretary" means the Secretary of Agriculture.

**TITLE I—GENERAL AUTHORITIES OF THE  
SECRETARY**

**SEC. 101. DELEGATION OF FUNCTIONS TO THE  
SECRETARY.**

(a) **DELEGATION OF FUNCTIONS.**—Except as otherwise provided in this Act and notwithstanding any other provision of law, all functions and all activities, officers, employees, and administrative units of the Department, not vested in the Secretary on the date of enactment of this Act, are delegated to the Secretary.

(b) **EXCEPTIONS TO THE DELEGATION.**—This section shall not apply to the following functions and administrative units of the Department:

- (1) The functions vested in administrative law judges by subchapter II of chapter 5 of title 5, United States Code.  
(2) The functions vested in the Inspector General by the Inspector General Act of 1978 (5 U.S.C. App. 3).  
(3) The functions vested in the Chief Financial Officer by chapter 9 of subtitle I of title 31, United States Code.  
(4) Corporations and the boards of directors and officers of the corporations.  
(5) The functions vested in the Alternative Agricultural Research and Commercialization Board by the Alternative Agricultural Research and Commercialization Act of 1990 (7 U.S.C. 5901 et seq.).

**SEC. 102. REORGANIZATION.**

(a) **GENERAL AUTHORITY OF THE SECRETARY.**—The Secretary may transfer any function or administrative unit of the Department, including any function or administrative unit delegated to the Secretary by this Act, and any officer or employee of the Department, as the Secretary considers appropriate. The authority established in the preceding sentence includes the authority to establish, consolidate, alter, or discontinue any administrative unit of the Department.

(b) **AUTHORITY TO TRANSFER RECORDS, PROPERTY, AND FUNDS.**—

(1) **IN GENERAL.**—Subject to section 1531 of title 31, United States Code, the Secretary may transfer any of the records, property, and unexpended balances (available or to be made available for use in connection with any affected function or administrative unit) of appropriations, allocations, and other funds of the Department, as the Secretary considers necessary to carry out this Act, except as otherwise provided in this section.

(2) **USE.**—Absent prior approval by law, any unexpended balances transferred pursuant to paragraph (1) shall be used only for the purposes for which the funds were originally made available.

(3) **ADDITIONAL AUTHORITY.**—The Secretary may make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with the functions or administrative units, as the Secretary considers necessary to carry out this Act.

(c) **PURPOSE OF THE AUTHORITY.**—The Secretary shall carry out subsections (a) and (b) with the goals of simplifying and maximizing the efficiency of the national, State, regional, and local levels of the Department, and of improving the accessibility of farm and other programs at all levels. To the extent practicable, the Secretary shall adapt the administration of the programs to State, regional, and local conditions.

(d) **EXHAUSTION OF ADMINISTRATIVE APPEALS.**—Notwithstanding any other provision of law, a person shall exhaust all administrative appeal procedures established by the Secretary before the person may bring an action in a court of competent jurisdiction against—

- (1) the Secretary;  
(2) the Department;  
(3) an administrative unit of the Department; or  
(4) an employee or agent of an administrative unit of the Department.

(e) **CONFORMING AMENDMENTS.**—Section 9 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714g) is amended—

- (1) in subsection (a), by striking "(a)"; and  
(2) by striking subsection (b).

**SEC. 103. PERSONNEL REDUCTIONS.**

(a) **DEFINITIONS.**—As used in this section:  
(1) **FIELD STRUCTURE.**—The term "field structure" means the offices, functions, and employee positions of all administrative units of the Department, other than the headquarters offices. The term includes the physical and geographic locations of the units. The term shall not include State, county, or area committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)).

(2) **HEADQUARTERS OFFICES.**—The term "headquarters offices" means the offices, functions, and employee positions of all administrative units of the Department located or performed in Washington, District of Columbia, or elsewhere, as determined by the Secretary.

(b) **EMPLOYEE REDUCTIONS.**—Subject to subsection (c), the Secretary shall achieve employee reductions of at least 7,500 staff years within the Department by September 30, 1999.

(c) **DISTRIBUTION.**—The percentage of employee reductions in the headquarters offices under subsection (b) shall be substantially higher than the percentage of employee reductions in the field structure, as determined by the Secretary.

(d) **SCHEDULE.**—The personnel reductions under subsections (b) and (c) should be accomplished concurrently in a manner determined by the Secretary.

**SEC. 104. CONSOLIDATION OF HEADQUARTERS  
OFFICES.**

The Secretary shall develop and carry out a plan to consolidate offices of administrative units of the Department located in Washington, District of Columbia, subject to the availability of appropriations.

**SEC. 105. REPORTS BY THE SECRETARY.**

(a) **IN GENERAL.**—Subject to subsection (b), notwithstanding any other provision of law, the Secretary may, but shall not be required to, prepare and submit any report to Congress or any committee of Congress.

(b) **LIMITATION.**—For each fiscal year, the Secretary may not prepare and submit more than 30 reports referred to in subsection (a).

(c) **SELECTION OF REPORTS.**—In consultation with the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Secretary shall determine which reports shall be prepared and submitted in accordance with subsection (b).

**TITLE II—NATIONAL APPEALS DIVISION**

**SEC. 201. DEFINITIONS.**

As used in this title:

(1) **ADVERSE DECISION.**—The term "adverse decision" means an administrative decision made by a decisionmaker that is adverse to a participant, including a denial of equitable relief, except that the term shall not include a decision over which the Board of Contract Appeals has jurisdiction. The term shall include the failure of a decisionmaker to issue a decision or otherwise act on the request or right of the participant to participate in, or receive payments, loans, or other benefits under, any of the programs administered by an agency. Notwithstanding section 701(a)(2) of title 5, United States Code, a discretionary decision of the Secretary or the Division shall be reviewable under section 706(2)(A) of such title unless the decision is

generally applicable to all program participants and, as a matter of general applicability, is committed to agency discretion by law within the meaning of section 701(a)(2) of such title.

(2) **AGENCY.**—The term "agency" means any agency of the Department designated by the Secretary or a successor agency of the Department, except that the term shall include—

- (A) ASCS;
- (B) CCC, with respect to domestic programs;
- (C) FmHA (including rural housing programs);
- (D) FCIC;
- (E) RDA (including rural housing programs);
- (F) SCS; or
- (G) a State or county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) or the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.).

(3) **APPELLANT.**—The term "appellant" means a participant who appeals an adverse decision in accordance with this title.

(4) **ASCS.**—The term "ASCS" means the Agricultural Stabilization and Conservation Service or a successor agency.

(5) **CASE RECORD.**—The term "case record" means all the materials maintained by the Secretary that concern the participant, including any materials related to the adverse decision.

(6) **CCC.**—The term "CCC" means the Commodity Credit Corporation or a successor agency.

(7) **DECISIONMAKER.**—The term "decisionmaker" means an officer, employee, or committee of an agency who makes an adverse decision that is appealed by an appellant.

(8) **DIRECTOR.**—The term "Director" means the Director of the Division.

(9) **DIVISION.**—The term "Division" means the National Appeals Division established by this title.

(10) **EMPLOYEE.**—The term "employee" means an individual employed by an agency, including an individual who enters into a contract with an agency to perform services for the agency.

(11) **FINAL DETERMINATION.**—The term "final determination" means a determination of an appeal by the Division that is administratively final, conclusive, and binding.

(12) **FCIC.**—The term "FCIC" means the Federal Crop Insurance Corporation or a successor agency.

(13) **FmHA.**—The term "FmHA" means the Farmers Home Administration or a successor agency.

(14) **HEARING OFFICER.**—The term "hearing officer" means an individual employed by the Division who hears and determines appeals of adverse decisions by any agency.

(15) **HEARING RECORD.**—The term "hearing record" means the transcript of a hearing, any audio tape or similar recording of a hearing, any information from the case record that a hearing officer considers relevant or that is raised by the appellant or agency, and all documents and other evidence presented to a hearing officer.

(16) **IMPLEMENT; IMPLEMENTATION.**—The terms "implement" and "implementation" refer to those actions necessary to effectuate fully and promptly a determination of the Division not later than 30 calendar days after the effective date of the determination.

(17) **PARTICIPANT.**—The term "participant" means any individual, group of individuals,

partnership, corporation, association, cooperative, or other entity whose application for, or right to participate in or receive, payments, loans, or other benefits in accordance with any of the programs administered by an agency, is affected by an adverse decision made by a decisionmaker.

(18) **RDA.**—The term "RDA" means the Rural Development Administration or a successor agency.

(19) **SCS.**—The term "SCS" means the Soil Conservation Service or a successor agency.

(20) **STATE DIRECTOR.**—The term "State director" means the individual who is primarily responsible for carrying out the program of an agency within a State.

## SEC. 202. NATIONAL APPEALS DIVISION AND DIRECTOR.

### (a) ESTABLISHMENT OF DIVISION.—

(1) **ESTABLISHMENT.**—The Secretary shall establish and maintain a National Appeals Division within the Office of the Secretary to carry out this title.

(2) **APA APPLICATION.**—The provisions of title 5, United States Code, shall apply to all appeals of the Division, including chapters 5 and 7 of such title.

(3) **PROCEDURAL REGULATIONS AND POLICIES.**—The Secretary shall promulgate procedural regulations and policies to govern the conduct of the business of the Division. The Secretary shall ensure and enhance the independence, integrity, and efficiency of the Division, the Director, hearing officers, and other employees of the Division.

### (b) DIRECTOR.—

(1) **APPOINTMENT.**—The Division shall be headed by a Director.

(2) **POSITION CLASSIFICATION.**—The position of the Director shall be a Senior Executive Service position that shall be filled by a career appointee (as defined in section 3132(a)(4) of title 5, United States Code), who shall not be subject to removal except for cause in accordance with law.

(3) **QUALIFICATIONS.**—The Director shall be a person who has substantial experience in practicing administrative law. In considering applicants for the position of Director, the Secretary shall consider persons employed outside the Government as well as Government employees.

(4) **CONFORMING AMENDMENT.**—Section 5316 of title 5, United States Code, is amended by adding at the end the following:

"Director, National Appeals Division, Department of Agriculture."

(c) **DIRECTION, CONTROL, AND SUPPORT.**—The Director shall be free from the direction and control of any person other than the Secretary. The Division shall not receive administrative support (except on a reimbursable basis) from any agency other than the Office of the Secretary. The Secretary may not delegate to any other officer or employee of the Department, other than the Director, the authority of the Secretary with respect to the Division.

(d) **COMMUNICATION WITH SECRETARY AND AGENCIES.**—The Director shall inform the Secretary and the appropriate agency of problems regarding the functions of the agency that are identified as a result of the activities of the Division under this title. The information provided by the Director may include proposals to resolve the problems identified or otherwise to improve the programs of the agency.

(e) **APPEALABLE DECISIONS.**—Subject to section 204(b)(2), if a decisionmaker determines that a decision is not appealable and a participant appeals the decision to the Director, the Director shall determine whether the decision is adverse or of general applicability,

and thus appealable. Except for a legal interpretation that may be reversed or modified by the Secretary, the determination of the Director as to whether a decision is appealable shall be administratively final, conclusive, and binding.

(f) **OTHER POWERS OF THE DIRECTOR.**—The Director may enter into contracts and make other arrangements for reporting and other services and make such payments as may be necessary to carry out this title.

## SEC. 203. TRANSFER OF FUNCTIONS.

There are transferred to the Division all functions exercised and all administrative appeals pending before the date of enactment of this Act (including all related functions of any officer or employee) of or relating to—

(1) the National Appeals Division established by section 426(c) of the Agricultural Act of 1949 (7 U.S.C. 1433e(c)) (as in effect before the amendment made by section 215(a)(2));

(2) the National Appeals Division established by subsections (d) through (g) of section 333B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983b) (as in effect before the amendment made by section 215(b));

(3) appeals of decisions made by FCIC; and

(4) appeals of decisions made by SCS.

## SEC. 204. PERSONNEL OF THE DIVISION.

(a) **APPOINTMENT, DIRECTION, AND CONTROL.**—The Director shall appoint such hearing officers and other employees as are necessary for the administration of the Division. A hearing officer or other employee of the Division shall have no duties other than those that are necessary to carry out this title. Hearing officers shall be supervised by the Director. All other employees of the Division shall report to the Director.

### (b) LEGAL COUNSEL.—

(1) **IN GENERAL.**—The Director shall employ legal counsel to advise the Director with respect to legal questions affecting the Division. The legal counsel shall not serve as a counsel to any other agency of the Department. This subsection is not intended to affect the role of the Office of General Counsel in representing the Department in civil or criminal actions or as a liaison between the Department and any other Federal agency.

(2) **REVIEW BY THE SECRETARY.**—If a hearing officer or the Director disagrees with the General Counsel on a matter of legal interpretation with respect to a program or authority of the Department, the Secretary shall have the authority to make a final determination on the interpretation at the request of the General Counsel. The authority of the Secretary under this paragraph may not be delegated.

(c) **PERFORMANCE EVALUATIONS.**—The Director shall establish policies to provide for the evaluation of the Director, hearing officers, and other employees of the Division who are involved in the appeal process under section 208 or the supervision of other employees. The evaluation process shall be designed to ensure and enhance the independence, integrity, and efficiency of the Director and employees of the Division. The actual evaluations shall include evaluations by individuals outside of the Department and may include peer review.

## SEC. 205. NOTICE AND OPPORTUNITY FOR HEARING.

(a) **NOTICE REQUIRED.**—Not later than 10 working days after an adverse decision is made that is adverse to the participant, the Secretary shall provide the participant with the written notice described in subsection (b).

(b) **CONTENT OF NOTICE.**—The notice required under subsection (a) shall contain a description of the following:

(1) The decision, including all of the reasons, facts, and conclusions underlying the decision.

(2) The appeal and implementation process available to the participant, including the rights and responsibilities of the participant provided by this title.

(3) An opportunity to request a determination by the Director pursuant to section 202(e) concerning whether a decision is appealable, if the decisionmaker determines that the decision is not appealable.

(c) **MAINTENANCE OF RECORDS.**—The Secretary and the Director shall maintain the entire case record and hearing record, respectively, and any additional information from any further appeal proceeding, of the participant at least until the expiration of the period during which the participant may seek administrative or judicial review of the determination.

(d) **JOINER.**—

(1) **GUARANTEED LOANS.**—With regard to a guaranteed loan under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.), a borrower or applicant who is directly and adversely affected by a decision of the Secretary may appeal the decision pursuant to this title without the lender joining in the appeal.

(2) **RENTAL HOUSING.**—A tenant in rental housing of an agency who is individually, directly, and adversely affected by a decision of the Secretary may appeal the decision pursuant to this title without the landlord joining in the appeal.

(3) **THIRD PARTIES.**—If the Director determines that the receipt of a payment, loan, or other direct benefit by a participant may be directly, substantially, and adversely affected by a determination of the Division, a hearing officer may invite the participant to participate in a hearing if the final determination resulting from the hearing would, as a practical matter, foreclose the participant from receiving the payment, loan, or other direct benefit of the participant. If the participant elects to participate in the hearing, the participant shall have the same procedural rights as the appellant with regard to the hearing and other procedures described in this title.

(e) **EFFECT OF REVERSAL OR MODIFICATION OF ADVERSE DECISION.**—If an adverse decision is reversed or modified by the Division, a decisionmaker may not base any subsequent adverse decision with regard to that appellant on the information that was available to the previous decisionmaker (or could have been available with reasonable diligence on the part of the previous decisionmaker).

#### SEC. 206. INFORMAL HEARINGS.

If a decisionmaker of an agency makes an adverse decision, the decisionmaker shall hold, at the request of the participant, an informal hearing on the decision.

#### SEC. 207. RIGHTS OF PARTICIPANTS.

Among other rights, a participant shall have the right, in accordance with this title, to—

(1) appeal any adverse decision;

(2) representation by an attorney or non-attorney throughout the informal hearing and appeals process under this title;

(3) access to, and a reasonable opportunity to inspect and reproduce, the case record at an office of the agency located in the area of the participant; and

(4) an evidentiary hearing.

#### SEC. 208. DIVISION HEARINGS AND DIRECTOR REVIEW.

(a) **POWERS OF DIRECTOR AND HEARING OFFICERS.**—To carry out their responsibilities under this section, the Director and hearing officers—

(1) shall have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available that relate to programs and operations with respect to which an appeal has been taken;

(2) shall have the authorities that are provided under section 202(a)(2);

(3) may request such information or assistance as may be necessary for carrying out the duties and responsibilities established under this title from any Federal, State, or local governmental agency or unit of the agency;

(4) may, or shall at the request of an appellant with good cause shown, require the attendance of witnesses and the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary to the proper resolution of appeals;

(5) may require the attendance of witnesses, and the production of evidence, by subpoena; and

(6) may administer oaths or affirmations.

(b) **TIME FOR HEARING.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), an appellant shall have the right to—

(A) request a hearing, not later than 30 days after the date an adverse decision is made; and

(B) have a hearing by the Division on the adverse decision, not later than 45 days after receipt of the request for the hearing.

(2) **REDUCTION OR EXTENSION.**—The Director may establish an earlier deadline for a hearing (or request for a hearing) on an appeal relating to a time sensitive decision, or delay a hearing (or request for a hearing), at the request of an appellant for good cause shown.

(c) **LOCATION AND ELEMENTS OF HEARING.**—

(1) **LOCATION.**—A hearing on an adverse decision shall be held in the State of residence of the appellant or at a location that is otherwise convenient to the appellant and the Division.

(2) **EVIDENTIARY HEARING.**—The evidentiary hearing before a hearing officer shall be in person, unless the appellant agrees to a hearing by telephone or by a review of the case record and hearing record. The hearing officer shall conduct and resolve the hearing (regardless of the hearing format) in a fair and impartial manner and free of undue influence. The hearing officer shall not be bound by previous findings of fact by the agency in making a determination.

(3) **INFORMATION AT HEARING.**—The hearing officer shall consider information, including new information, presented at the hearing without regard to whether the evidence was known to the decisionmaker at the time the adverse decision was made. The hearing officer shall leave the record open after the hearing for a reasonable period of time to allow the submission of information by the appellant or the decisionmaker after the hearing to the extent necessary to prevent the appellant or the decisionmaker from being prejudiced by new facts, information, arguments, or evidence presented or raised by the decisionmaker or appellant. At the hearing, the agency may not rely on or assert new grounds for the adverse decision, if the grounds were not described in the agency decision notice.

(4) **BURDEN OF PROOF.**—The appellant shall bear the burden of proving that the adverse decision of the agency was erroneous.

(5) **PRODUCTION OF RECORD.**—An official verbatim record shall be provided by the Division for each hearing before a hearing officer. The appellant or agency representative may record an unofficial record of the hearing.

(6) **STANDARD OF REVIEW.**—In any case pending before a hearing officer, the hearing officer may determine that the adverse decision was in error only if substantial evidence demonstrates that the adverse decision was not correct. For purposes of this paragraph, the evidentiary threshold for substantial evidence is lower than the evidentiary threshold for preponderance of the evidence.

(7) **DETERMINATION NOTICE.**—The hearing officer shall issue a notice of the determination on the appeal not later than 30 days after a hearing or after receipt of the request of the appellant to waive a hearing, except that the Director may establish an earlier or later deadline pursuant to subsection (b)(2). The hearing officer may include recommendations in the determination notice. If the determination is not appealed to the Director under subsection (d), the notice provided by the hearing officer shall be considered to be a notice of final determination.

(d) **REVIEW BY DIRECTOR.**—

(1) **REFERRAL.**—At the request of the appellant or the head of the agency affected by a determination of a hearing officer, the determination of the hearing officer shall be referred to the Director for review.

(2) **APPEAL BY HEAD OF AGENCY TO DIRECTOR.**—

(A) **REVIEW OF DETERMINATION OF HEARING OFFICER AT THE REQUEST OF AN AGENCY HEAD.**—In exceptional circumstances, if the head of an agency believes that the determination of a hearing officer is contrary to a statute or regulation, or a finding of fact of a hearing officer is clearly erroneous, only the head of the agency may make a written request, not later than 10 business days after receipt of the determination, that the Director review the determination.

(B) **REQUESTS FOR REVIEW.**—A request for review shall—

(i) include a full description of—

(I) the exceptional circumstances justifying the request for review; and

(II) the reasons that the head of the relevant agency believes that the determination is contrary to statute or regulation, or the finding of fact of the hearing officer is clearly erroneous; and

(ii) be provided to the appellant and the hearing officer at the same time the request is provided to the Director.

(C) **DETERMINATION OF DIRECTOR.**—Not later than 10 business days after receipt of the request for review, the Director shall—

(i) conduct a review of the determination based on the case record and hearing record, the request for review under subsection (b), and any additional arguments or information submitted by the appellant or the hearing officer; and

(ii)(I) issue a final determination notice that upholds, reverses, or modifies the determination of the hearing officer; or

(II) if the Director determines that the hearing record is inadequate, remand the determination for further proceedings to complete the hearing record, or, at the option of the Director, to hold a new hearing, and notify the appellant, agency, and hearing officer of the remand.

(D) **NEW HEARING.**—If the Director remands a determination for a new hearing on the adverse decision under subparagraph (C), the

hearing officer shall make a new determination with respect to the adverse decision based on the case record and the hearing record.

(E) FINALITY.—The head of the relevant agency may not request a second review as to the determination of the hearing officer or the Director on the same issue.

(3) APPEAL BY HEAD OF AGENCY OR APPELLANT TO DIRECTOR.—

(A) USE OF RECORD.—If the determination of a hearing officer is appealed under paragraph (1), the hearing officer shall certify the hearing record and provide the record to the Director.

(B) NEW INFORMATION.—The Director may consider, under extraordinary circumstances, new information in reviewing a determination under this section. The appellant, decisionmaker, and hearing officer shall receive and have the opportunity to comment on the new information.

(C) ACTIONS.—Not later than 30 days after the referral to the Director, the Director shall—

(i) review the hearing record and the determination;

(ii) uphold the determination, issue a new determination, require that a new hearing be held on 1 or more of the issues considered at the original hearing, or take any combination of the actions described in this clause; and

(iii) issue a notice of—

(I) a new evidentiary hearing;

(II) a final determination; or

(III) a remand on certain issues and a final determination on remaining issues.

(D) RECOMMENDATIONS.—The Director may include recommendations in a final determination notice.

(E) RELIEF.—The Director shall have the same authority as the Secretary to grant equitable relief. Notwithstanding the administrative finality of a final determination, the Secretary shall have the authority to grant equitable or other types of relief to the appellant after a final determination is issued by the Division.

(e) BASIS FOR DETERMINATION.—The determination of the hearing officer and the Director shall be based on information from the hearing record, laws applicable to the matter at issue, and applicable regulations published in the Federal Register and in effect on the date of the adverse decision or the date on which the acts that gave rise to the adverse decision occurred, whichever date is appropriate. The Director shall not reverse the determination of a hearing officer with regard to a finding of fact that is based on oral testimony or inspection of evidence unless the finding of fact is clearly erroneous or the Director is considering new information under subsection (d)(3) with respect to the finding of fact.

(f) EFFECTIVE DATE.—The final determination shall be effective as of the date of filing of an application, the date of the transaction or event in question, or the date of the original adverse decision, whichever is applicable.

#### SEC. 209. JUDICIAL REVIEW.

A final determination of the Division under section 208 shall be reviewable and enforceable by any United States district court of competent jurisdiction in accordance with chapter 7 of title 5, United States Code. Notwithstanding section 701(a)(2) of such title, a discretionary decision of the Secretary or the Division shall be reviewable under section 706(2)(A) of such title unless the decision is generally applicable to all program participants and, as a matter of general applicability, is committed to agency discretion by

law within the meaning of section 701(a)(2) of such title.

#### SEC. 210. IMPLEMENTATION OF FINAL DETERMINATIONS OF DIVISION.

(a) IN GENERAL.—On the return of a case to an agency pursuant to the final determination of a hearing officer or the Director under section 208, the agency shall implement the final determination of the Division not later than 30 days after the effective date of the notice of the final determination.

(b) ADDITIONAL AND UPDATED INFORMATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), after notice of a final determination is received by the agency—

(A) the agency may not require that additional and updated information be provided by the appellant or considered by the decisionmaker in implementing the final determination of the hearing officer or the Director; and

(B) additional and updated information from any other source may not be used in implementing the final determination.

(2) EXCEPTIONS.—

(A) INTRODUCTION BY APPELLANT.—If additional information is introduced by the appellant during the appeal process and accepted by the hearing officer or the Director, the agency shall consider the additional information in implementing the final determination.

(B) DETERMINATION LETTER.—If the final determination notice specifically states that additional and updated information will be considered in implementing the final determination, the agency shall consider any additional and updated information in implementing the final determination.

(C) SUBSEQUENT ADVERSE DECISION.—Additional and updated information considered under this paragraph may not be used as a ground for a subsequent adverse decision.

(c) IMPLEMENTATION RESPONSIBILITIES.—

(1) STATE DIRECTOR.—Each State director shall be—

(A) required to implement final determinations of a hearing officer or the Director that affect appellants in the State; and

(B) responsible for monitoring and ensuring the implementation of final determinations that reverse and modify adverse decisions.

(2) AGENCY HEADS.—Relevant agency heads shall be responsible for—

(A) the performance of State directors under paragraph (1); and

(B) the implementation of all final determinations of the Division that reverse or modify adverse decisions of the agency.

(d) PROTECTION OF APPELLANTS' RIGHTS.—

(1) IN GENERAL.—No officer or employee of the Federal Government shall make or engage in threats or intimidation, or solicit action, to prevent any potential appellant from exercising a right of the appellant under this title or make, solicit, or engage in retaliation or retribution for the exercise of a right of an appellant under this title.

(2) CORRECTIVE ACTION.—If an officer or employee of the Federal Government violates paragraph (1), the Secretary shall take corrective action (including the imposition of sanctions, when necessary) in conformance with civil service laws.

(e) IMPLEMENTATION PROBLEMS.—

(1) ACTIONS BY RELEVANT AGENCY HEAD.—The relevant agency head shall promptly correct any problems that may arise in the implementation of a final determination.

(2) OVERSIGHT.—The Secretary shall assign employees within the Office of the Inspector General whom appellants may contact con-

cerning problems with the implementation of final determinations of the Division. The employees shall investigate and, to the extent practicable, resolve the implementation problems.

(3) IDENTITY AND ACTIVITIES OF OVERSIGHT AGENCY.—The Secretary shall notify the Director of the business address and telephone number of employees assigned under paragraph (2). The Director shall include this information in the final determination notice of the Division to an appellant.

#### SEC. 211. DECISIONS OF STATE AND COUNTY COMMITTEES.

(a) FINALITY.—Each decision of a State or county committee (or an employee of the committee) that administers functions of CCC, or functions assigned to ASCS on the date of enactment of this Act, made in good faith in the absence of misrepresentation, false statement, fraud, or willful misconduct shall be final not later than 90 days after the date of filing of the application for benefits, unless the decision is—

(1) appealed under this title; or

(2) modified by the Administrator of ASCS or the Executive Vice President of CCC.

(b) RECOVERY OF AMOUNTS.—No action shall be taken by the CCC, ASCS, or a State or county committee to recover amounts found to have been disbursed as a result of a decision in error if the decision of the State or county committee has become final under subsection (a), unless the participant had reason to believe that the decision was erroneous.

#### SEC. 212. PROHIBITION ON ADVERSE ACTION WHILE APPEAL IS PENDING.

(a) IN GENERAL.—The Secretary may not take any adverse action against an appellant relating to an appeal while any proceeding authorized or required under this title is pending, including any action that would prevent the implementation of a decision that is favorable to the appellant.

(b) WITHHOLDING.—This section shall not preclude the Secretary from withholding a payment if the eligibility for, or amount of, the payment is an issue on appeal, except that ongoing assistance to then current borrowers and grantees shall not be discontinued pending the outcome of an appeal.

#### SEC. 213. RELATIONSHIP TO OTHER LAWS.

(a) OTHER RIGHTS.—This title is not intended to supersede or deprive a recipient of assistance from an agency of any rights that the recipient may have under any other law, including section 510(g) of the Housing Act of 1949 (42 U.S.C. 1480(g)).

(b) EQUITABLE RELIEF.—This title is not intended to affect the authority of an agency head to grant equitable relief.

(c) EMPLOYEE RIGHTS.—This title shall neither supersede nor interfere with rights granted to employees or their exclusive representatives by applicable civil service laws.

#### SEC. 214. EVALUATION OF AGENCY DECISIONMAKERS AND OTHER EMPLOYEES.

(a) EVALUATION IN ANNUAL REVIEW.—The Secretary shall promulgate regulations to require the evaluation described in subsection (b) as part of the annual review of the performance of decisionmakers, State directors, and agency heads.

(b) PERFORMANCE.—In the review, a decisionmaker, a State director, or an agency head shall be considered to have performed poorly if the decisionmaker, State director, or agency head—

(1) takes action that leads to numerous appeals that result in adverse decisions that are reversed or modified;

(2) fails to properly implement final determinations of the Division;

(3) fails to satisfactorily perform the reviewing and monitoring responsibilities required under subsection (c) or (e)(1) of section 210, whichever applies; or

(4) threatens or intimidates, or engages in retaliation or retribution against, an appellant in violation of section 210(d).

(c) **SANCTIONS.**—If a decisionmaker, State director, or relevant agency head has performed poorly (as determined under subsection (b)), the Secretary shall issue sanctions against the decisionmaker, State director, or relevant agency head, as the case may be, which may include a formal reprimand or dismissal consistent with civil service laws.

#### SEC. 215. CONFORMING AMENDMENTS.

(a) **ASCS.**—

(1) **FINALITY OF FARMERS PAYMENTS AND LOANS.**—Section 385 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1385) is amended—

(A) by striking the first sentence and inserting the following new sentence: "As used in this section, the term 'payment' means any payment under the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590a et seq.), any payment under the wheat, feed grain, upland cotton, extra long staple cotton, and rice programs authorized by the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) and this Act, or any loan or price support operation, or the amount of the payment, loan, or price support."; and

(B) in the second sentence, by striking "any such payment" and inserting "a payment".

(2) **DETERMINATIONS BY SECRETARY; APPEALS.**—Sections 412 and 426 of the Agricultural Act of 1949 (7 U.S.C. 1429 and 1433e) are repealed.

(b) **FMHA.**—Section 333B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983b) is repealed.

(c) **FCIC.**—The last sentence of section 508(f) of the Federal Crop Insurance Act (7 U.S.C. 1508(f)) is amended by inserting before the period at the end the following: "or within 1 year after the claimant receives a final determination notice from an administrative appeal made in accordance with title II of the Department of Agriculture Reorganization Act of 1994, whichever is later".

### TITLE III—FARM AND INTERNATIONAL TRADE SERVICES

#### SEC. 301. UNDER SECRETARY FOR FARM AND INTERNATIONAL TRADE SERVICES.

(a) **ESTABLISHMENT.**—There is established in the Department the position of Under Secretary of Agriculture for Farm and International Trade Services (referred to in this section as the "Under Secretary"), to be appointed by the President, by and with the advice and consent of the Senate.

(b) **DUTIES.**—The Under Secretary shall exercise such functions and perform such duties related to farm and international trade services, and shall perform such other duties, as may be required by law or prescribed by the Secretary.

(c) **CONTINUITY OF THE POSITION.**—Any official serving as Under Secretary for International Affairs and Commodity Programs on the date of enactment of this Act, who has been appointed by the President and confirmed by the Senate, shall be considered on and after the date of enactment of this Act to be serving in the successor position established by subsection (a), and shall not be required to be reconfirmed by reason of the enactment of this Act.

(d) **CONFORMING AMENDMENTS.**—

(1) Section 5314 of title 5, United States Code, is amended by striking "Under Secretary of Agriculture for International Af-

fairs and Commodity Programs." and inserting "Under Secretary of Agriculture for Farm and International Trade Services."

(2) Section 501 of the Agricultural Trade Act of 1978 (7 U.S.C. 5691) is repealed.

#### SEC. 302. FARM SERVICE AGENCY.

(a) **ESTABLISHMENT.**—The Secretary is authorized to establish and maintain a Farm Service Agency (referred to in this section as the "Agency") and assign to the Agency such functions as the Secretary may consider appropriate.

(b) **HEAD.**—

(1) **AGENCY.**—If the Secretary establishes the Agency, the Agency or any successor administrative unit shall be headed by an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) **FCIC.**—The Secretary may appoint the Administrator of the Agency, or any other person, to serve as head of the Federal Crop Insurance Corporation.

(c) **FUNCTIONS.**—Except as provided in subsection (d), the Secretary is authorized to carry out through the Agency—

(1) price and income support, production adjustment, and other related functions;

(2) functions of the Federal Crop Insurance Corporation;

(3) notwithstanding section 331 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981), agricultural credit functions assigned prior to the date of enactment of this Act to the Farmers Home Administration, including farm ownership, operating, emergency, and disaster loan functions, and other lending programs for producers of agricultural commodities; and

(4) any other function or administrative unit that the Secretary considers appropriate.

(d) **FUNCTIONS NOT ASSIGNABLE TO THE AGENCY.**—Except as otherwise determined by the Secretary, functions relating to conservation programs authorized to be assigned to the Natural Resources Conservation Service established under section 601 may not be assigned to the Agency.

(e) **USE OF EMPLOYEES.**—Notwithstanding any other provision of law, in carrying out in any county or area any functions assigned to the Agency or any successor administrative area, the Secretary is authorized to—

(1) use interchangeably, in the implementation of functions, Federal employees, and employees of county and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)); and

(2) provide interchangeably for supervision by the employees of the performance of functions assigned to the Agency.

(f) **COLLOCATION.**—The Secretary, to the maximum extent practicable, shall collocate county offices of the Agency with county offices of the Natural Resources Conservation Service in order to—

(1) maximize savings from shared equipment, office space, and administrative support;

(2) simplify paperwork and regulatory requirements;

(3) provide improved services to producers and landowners affected by programs administered by the Agency and the Service; and

(4) achieve computer compatibility between the Agency and the Service to maximize efficiency and savings.

(g) **CONTINUITY OF THE POSITION.**—Any official serving on the date of enactment of this Act, who has been appointed by the President and confirmed by the Senate, shall not be required to be reconfirmed by reason of the enactment of this Act.

#### (h) CONFORMING AMENDMENTS.—

(1) The second sentence of section 505(a) of the Federal Crop Insurance Act (7 U.S.C. 1505(a)) is amended by striking "the Under Secretary or Assistant Secretary of Agriculture responsible for the farm credit programs of the Department of Agriculture," and inserting "one additional Under or Assistant Secretary of Agriculture, as designated by the Secretary."

(2) Section 507(d) of the Federal Crop Insurance Act (7 U.S.C. 1507(d)) is amended by striking "section 516 of this Act," and all that follows through the period at the end of the subsection and inserting "section 516."

(3) Section 331(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981(a)) is amended by striking "assets to the Farmers Home Administration" and all that follows through the period at the end of the subsection and inserting "assets to such officers or administrative units of the Department of Agriculture as the Secretary may consider appropriate."

#### SEC. 303. STATE AND COUNTY COMMITTEES.

Section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) is amended—

(1) by designating the first through eighth undesignated paragraphs as paragraphs (1) through (8), respectively; and

(2) in paragraph (5) (as so designated) by adding at the end the following new sentence: "The Secretary is authorized, after consultation with the State committee of the State in which the affected counties are located, to terminate, combine, and consolidate two or more county committees established under this subsection."

#### SEC. 304. INTERNATIONAL TRADE SERVICE.

(a) **ESTABLISHMENT.**—The Secretary is authorized to establish and maintain an International Trade Service (referred to in this section as the "Service") and to assign to the Service such functions or administrative units as the Secretary may consider appropriate and consistent with this Act.

(b) **HEAD.**—If the Secretary establishes the Service, the Service or any successor administrative unit shall be headed by an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) **FUNCTIONS.**—The Secretary is authorized to carry out, through the Service or through such other officers or administrative units as the Secretary may consider appropriate, programs and activities involving—

(1) the acquisition of information pertaining to agricultural trade;

(2) market promotion and development;

(3) promotion of exports of United States agricultural commodities;

(4) administration of international food assistance; and

(5) international development, technical assistance, and training.

(d) **CONTINUITY OF THE POSITION.**—Any official serving on the date of enactment of this Act, who has been appointed by the President and confirmed by the Senate, shall not be required to be reconfirmed by reason of the enactment of this Act.

(e) **CONFORMING AMENDMENTS.**—Sections 502 and 503 of the Agricultural Trade Act of 1978 (7 U.S.C. 5692 and 5693) are repealed.

### TITLE IV—RURAL ECONOMIC AND COMMUNITY DEVELOPMENT

#### SEC. 401. UNDER SECRETARY FOR RURAL ECONOMIC AND COMMUNITY DEVELOPMENT.

(a) **ESTABLISHMENT.**—Subsection (a) of section 3 of the Rural Development Policy Act

of 1980 (7 U.S.C. 2211b) is amended to read as follows:

"(a)(1) There is established in the Department of Agriculture the position of Under Secretary of Agriculture for Rural Economic and Community Development to be appointed by the President, by and with the advice and consent of the Senate.

"(2) The Under Secretary of Agriculture for Rural Economic and Community Development shall exercise such functions and perform such duties related to rural economic and community development, and shall perform such other duties, as may be required by law or prescribed by the Secretary of Agriculture."

(b) CONTINUITY OF POSITION.—Any official serving as Under Secretary of Agriculture for Small Community and Rural Development on the date of enactment of this Act, after appointment by the President, by and with the advice and consent of the Senate, shall be considered after the date of enactment of this Act to be serving in the successor position established by the amendment made by subsection (a), and shall not be required to be reconfirmed by reason of the enactment of this Act.

(c) CONFORMING AMENDMENT.—Section 5314 of title 5, United States Code, is amended by striking "Under Secretary of Agriculture for Small Community and Rural Development," and inserting "Under Secretary of Agriculture for Rural Economic and Community Development."

#### SEC. 402. RURAL UTILITIES SERVICE.

(a) ESTABLISHMENT.—Notwithstanding section 364 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006f) and any other provision of law, the Secretary is authorized to establish and maintain within the Department the Rural Utilities Service (referred to in this section as the "Service") and to assign to the Service such functions and administrative units as the Secretary may consider appropriate.

(b) HEAD.—If the Secretary establishes the Service, the Service or any successor administrative unit shall be headed by an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) FUNCTIONS.—The Secretary may carry out through the Service, or through any other officer or administrative unit as the Secretary may consider appropriate—

(1) electric and telephone loan programs and water and waste facility activities authorized by law, including—

(A) the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.); and

(B) section 2322 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1932-1); and

(2) water and waste facility programs and activities authorized by law, including—

(A) sections 306, 306A, 306B, and 306C, the provisions of sections 309 and 309A relating to assets, terms, and conditions of water and sewer programs, section 310B(b)(2), and the amendment made by section 342 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926, 1926a, 1926b, 1926c, 1929, 1929a, 1932(b)(2), and 1013a); and

(B) section 2324 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1926 note).

(d) CONTINUITY OF THE POSITION.—Any official serving on the date of enactment of this Act, who has been appointed by the President and confirmed by the Senate, shall not be required to be reconfirmed by reason of the enactment of this Act.

(e) CONFORMING AMENDMENTS TO THE RURAL ELECTRIFICATION ACT.—

(1) The first section of the Rural Electrification Act of 1936 (7 U.S.C. 901) is amended by striking "there is" and all that follows through "This Act" and inserting "this Act".

(2) Section 2 of such Act (7 U.S.C. 902) is amended by striking "Administrator" and inserting "Secretary of Agriculture".

(3) Section 3(a) of such Act (7 U.S.C. 903(a)) is amended—

(A) by striking "Administrator, upon the request and approval of the Secretary of Agriculture," and inserting "Secretary"; and

(B) by striking "Administrator appointed pursuant to the provisions of this Act or from the Administrator of the Rural Electrification Administration established by Executive Order Numbered 7037" and inserting "Secretary".

(4) Section 8 of such Act (7 U.S.C. 908) is amended—

(A) in the first sentence, by striking "Administrator authorized to be appointed by this Act" and inserting "Secretary"; and

(B) in the second sentence, by striking "Rural Electrification Administration created by this Act" and inserting "Secretary".

(5) Section 11A of such Act (7 U.S.C. 911a) is repealed.

(6) Section 13 of such Act (7 U.S.C. 913) is amended by inserting before the period the following: "; and the term 'Secretary' means the Secretary of Agriculture".

(7) Sections 206(b)(2), 306A(b), 311, and 405(b)(1)(A) of such Act (7 U.S.C. 927(b)(2), 936a(b), 940a, and 945(b)(1)(A)) are amended by striking "Rural Electrification Administration" each place it appears and inserting "Secretary".

(8) Section 403(b) of such Act (7 U.S.C. 943(b)) is amended by striking "Rural Electrification Administration or of any other agency of the Department of Agriculture," and inserting "Secretary".

(9) Section 404 of such Act (7 U.S.C. 944) is amended by striking "the Administrator of the Rural Electrification Administration" and inserting "the Secretary of Agriculture shall designate an official of the Department of Agriculture who".

(10) Sections 406(c) and 410(a)(1) of such Act (7 U.S.C. 946(c) and 950) are amended by striking "Administrator of the Rural Electrification Administration" each place it appears and inserting "Secretary".

(11) Such Act (7 U.S.C. 901 et seq.) is amended by striking "Administrator" each place it appears and inserting "Secretary".

(f) MISCELLANEOUS CONFORMING AMENDMENTS.—

(1) Section 236(a) of the Disaster Relief Act of 1970 (7 U.S.C. 912a) is amended by striking "Rural Electrification Administration" and inserting "Secretary pursuant to the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.)".

(2) The second undesignated paragraph of section 401 of the Rural Electrification Act of 1938 (52 Stat. 818; 7 U.S.C. 903 note) is amended by striking "Administrator of the Rural Electrification Administration" and inserting "Secretary of Agriculture".

(3) Section 15 of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 915) is amended by striking "Rural Electrification Administration" and inserting "Secretary".

(4)(A) Section 2333 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 950aaa-2) is amended—

(i) by striking paragraph (1); and

(ii) by redesignating paragraphs (2) through (11) as paragraphs (1) through (10), respectively.

(B) Chapter 1 of subtitle D of title XXIII of such Act (7 U.S.C. 950aaa et seq.) is amended

by striking "Administrator" each place it appears and inserting "Secretary".

#### SEC. 403. RURAL HOUSING AND COMMUNITY DEVELOPMENT SERVICE.

(a) ESTABLISHMENT.—Notwithstanding section 364 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006f) and any other provision of law, the Secretary is authorized to establish and maintain within the Department the Rural Housing and Community Development Service (referred to in this section as the "Service") and to assign to the Service such functions as the Secretary may consider appropriate.

(b) FUNCTIONS.—The Secretary is authorized to carry out through the Service, or through any other officer or administrative unit as the Secretary may consider appropriate—

(1) programs and activities under title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.);

(2) programs and activities authorized under section 310B(i) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(i)) and related provisions of law; and

(3) programs and activities that relate to rural community lending programs, including programs authorized by sections 365 through 369 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008 through 2008d).

#### SEC. 404. RURAL BUSINESS AND COOPERATIVE DEVELOPMENT SERVICE.

(a) ESTABLISHMENT.—Notwithstanding section 364 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006f) and any other provision of law, the Secretary is authorized to establish and maintain within the Department the Rural Business and Cooperative Development Service (referred to in this section as the "Service"), and to assign to the Service such functions as the Secretary may consider appropriate.

(b) FUNCTIONS.—The Secretary is authorized to carry out through the Service, or through any other officer or administrative unit as the Secretary may consider appropriate, programs and activities, including—

(1) section 313 and title V of the Rural Electrification Act of 1936 (7 U.S.C. 940c and 950aa et seq.);

(2) subtitle G of title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5901 et seq.);

(3) sections 306(a)(1) and 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(1) and 1932);

(4) section 1323 of the Food Security Act of 1985 (Public Law 99-198; 7 U.S.C. 1932 note); and

(5) the Act of July 2, 1926 (44 Stat. 802, chapter 725; 7 U.S.C. 451 et seq.).

#### TITLE V—FOOD, NUTRITION, AND CONSUMER SERVICES

##### SEC. 501. UNDER SECRETARY OF AGRICULTURE FOR FOOD, NUTRITION, AND CONSUMER SERVICES.

(a) ESTABLISHMENT.—There is established in the Department the position of Under Secretary of Agriculture for Food, Nutrition, and Consumer Services to be appointed by the President, by and with the advice and consent of the Senate.

(b) DUTIES.—The Under Secretary of Agriculture for Food, Nutrition, and Consumer Services shall exercise such functions and perform such duties related to food, nutrition, and consumer services, and shall perform such other duties, as may be required by law or prescribed by the Secretary.

(c) CONTINUITY OF THE POSITION.—Any official serving as Assistant Secretary of Agriculture for Food and Consumer Services on

the date of enactment of this Act, after appointment by the President, by and with the advice and consent of the Senate, shall be considered to be serving in the successor position established by subsection (a), and shall not be required to be reconfirmed by reason of the enactment of this Act.

(d) CONFORMING AMENDMENT.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

“Under Secretary of Agriculture for Food, Nutrition, and Consumer Services.”

#### SEC. 502. FOOD AND CONSUMER SERVICE.

(a) ESTABLISHMENT.—The Secretary is authorized to establish and maintain within the Department the Food and Consumer Service (referred to in this section as the “Service”) and to assign to the Service such functions as the Secretary may consider appropriate.

(b) FUNCTIONS.—The Secretary is authorized to carry out through the Service, or through any other officer or administrative unit as the Secretary may consider appropriate, programs and activities, including—

- (1) the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);
- (2) the National School Lunch Act (42 U.S.C. 1751 et seq.); and
- (3) the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

#### SEC. 503. NUTRITION RESEARCH AND EDUCATION SERVICE.

(a) ESTABLISHMENT.—The Secretary is authorized to establish and maintain within the Department the Nutrition Research and Education Service (referred to in this section as the “Service”) and to assign to the Service such functions as the Secretary may consider appropriate.

(b) FUNCTIONS.—The Secretary is authorized to carry out through the Service, or through any other officer or administrative unit as the Secretary may consider appropriate, programs and activities relating to human nutrition research and education.

### TITLE VI—NATURAL RESOURCES AND ENVIRONMENT

#### SEC. 601. NATURAL RESOURCES CONSERVATION SERVICE.

(a) ESTABLISHMENT.—The Secretary is authorized to establish and maintain within the Department the Natural Resources Conservation Service (referred to in this section as the “Service”) and to assign to the Service such functions as the Secretary may consider appropriate.

(b) FUNCTIONS.—The Secretary is authorized to carry out through the Service, or through any other officer or administrative unit of the Department as the Secretary may consider appropriate, programs and activities, including—

- (1) title X of the Agricultural Act of 1970 (16 U.S.C. 1501 et seq.);
- (2) the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590a et seq.);
- (3) the Water Bank Act (16 U.S.C. 1301 et seq.);
- (4) section 4 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103);
- (5) title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.);
- (6) title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 et seq.);
- (7) section 202(c) of the Colorado River Basin Salinity Control Act (43 U.S.C. 1592(c)); and
- (8) the Farms for the Future Act of 1990 (7 U.S.C. 4201 note).

(c) USE OF EMPLOYEES.—Notwithstanding any other provision of law, in carrying out in any county or area any functions assigned to the Service or any successor administrative unit, the Secretary is authorized to—

(1) use interchangeably, in the implementation of functions, Federal employees, and employees of county and area committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)); and

(2) provide interchangeably for supervision by the employees of the performance of functions assigned to the Service.

(d) AGRICULTURAL CONSERVATION PROGRAM.—In carrying out the Agricultural Conservation Program, the Secretary shall—

(1) acting on the recommendations of the Service, with the concurrence of the Farm Service Agency, issue regulations to carry out the program; and

(2) use a county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) to make the final decision on which applicants are eligible to receive cost share assistance under the program based on priorities and guidelines established at the national and State levels by the Service.

(e) CONFORMING AMENDMENTS.—

(1) Section 5 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590e) is repealed.

(2)(A) Section 2(2) of the Soil and Water Resources Conservation Act of 1977 (16 U.S.C. 2001(2)) is amended by striking “the Soil Conservation Service of”.

(B) Section 3(2) of such Act (16 U.S.C. 2002(2)) is amended by striking “through the Soil Conservation Service”.

(C) The first sentence of section 6(a) of such Act (16 U.S.C. 2005(a)) is amended by striking “Soil Conservation Service” and inserting “Secretary”.

#### SEC. 602. REORGANIZATION OF FOREST SERVICE.

(a) IN GENERAL.—Reorganization proposals that are developed by the Secretary to carry out the designation by the President of the Forest Service as a Reinvention Lab pursuant to the National Performance Review (September 1993) shall include proposals for—

(1) reorganizing the Service in a manner that is consistent with the principles of interdisciplinary planning;

(2) redefining and consolidating the mission and roles of, and research conducted by, employees of the Service in connection with the National Forest System and State and private forestry to facilitate interdisciplinary planning and to eliminate functionalism;

(3) reforming the budget structure of the Service to support interdisciplinary planning, including reducing the number of budget line items;

(4) defining new measures of accountability so that Congress may meet the constitutional obligation of Congress to oversee the Service;

(5) achieving structural and organizational consolidations;

(6) to the extent practicable, sharing office space, equipment, vehicles, and electronic systems with other administrative units of the Department and other Federal field offices, including proposals for using an on-line system by all administrative units of the Department to maximize administrative efficiency; and

(7) reorganizing the Service in a manner that will result in a larger percentage of employees of the Service being retained at organizational levels below regional offices, research stations, and the area office of the Service.

(b) REPORT.—Not later than March 31, 1995, the Secretary shall submit a report to the Committee on Agriculture of the House of

Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate that describes actions taken to carry out subsection (a) and identifies any disparities in regional funding patterns and the rationale behind the disparities.

### TITLE VII—MARKETING AND INSPECTION SERVICES

#### SEC. 701. GRAIN INSPECTION, PACKERS AND STOCKYARDS ADMINISTRATION.

(a) ESTABLISHMENT.—The Secretary is authorized to establish and maintain within the Department the Grain Inspection, Packers and Stockyards Administration (referred to in this section as the “Administration”) and to assign to the Administration such functions as the Secretary may consider appropriate.

(b) FUNCTIONS.—The Secretary is authorized to carry out through the Administration, or through any other officer or administrative unit as the Secretary may consider appropriate, programs and activities authorized under—

- (1) the United States Grain Standards Act (7 U.S.C. 71 et seq.); and
- (2) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.).

(c) CONFORMING AMENDMENTS.—

(1)(A) Section 3 of the United States Grain Standards Act (7 U.S.C. 75) is amended—

- (i) by striking subsections (z) and (aa); and
- (ii) by redesignating subsection (bb) as subsection (z).

(B) Section 3A of such Act (7 U.S.C. 75a) is repealed.

(C) Section 5(b) of such Act (7 U.S.C. 77(b)) is amended by striking “Service employees” and inserting “employees of the Secretary”.

(D) The first sentences of each of sections 7(j)(2) and 7A(1)(2) of such Act (7 U.S.C. 79(j)(2) and 79A(1)(2), respectively) are amended by striking “supervision by Service personnel of its field office personnel” and inserting “supervision by the Secretary of the field office personnel of the Secretary”.

(E) Section 12 of such Act (7 U.S.C. 87a) is amended—

- (i) in the first sentence of subsection (c), by striking “or Administrator”; and
- (ii) in subsection (d), by striking “or the Administrator”.

(F) Such Act (7 U.S.C. 71 et seq.) is amended by striking “Administrator” and “Service” each place either term appears and inserting “Secretary”.

(2) Section 407 of the Packers and Stockyards Act, 1921 (7 U.S.C. 228) is amended—

- (A) by striking subsection (b);
- (B) by redesignating subsections (c) through (f) as subsections (b) through (e), respectively; and

(C) in subsection (e) (as so designated), by striking “subsection (e)” and inserting “subsection (d)”.

### TITLE VIII—RESEARCH, ECONOMICS, AND EDUCATION

#### SEC. 801. FEDERAL RESEARCH AND INFORMATION SERVICE.

(a) ESTABLISHMENT.—The Secretary is authorized to establish and maintain within the Department the Federal Research and Information Service (referred to in this section as the “Service”) and to assign to the Service such functions as the Secretary may consider appropriate.

(b) FUNCTIONS.—The Secretary is authorized to carry out through the Service, or through any other officer or administrative unit as the Secretary may consider appropriate, programs and activities, including—

- (1) agricultural research; and
- (2) agricultural information and library services.

**SEC. 802. COOPERATIVE STATE RESEARCH AND EDUCATION SERVICE.**

(a) **ESTABLISHMENT.**—The Secretary is authorized to establish and maintain within the Department the Cooperative State Research and Education Service (referred to in this section as the "Service") and to assign to the Service such functions as the Secretary may consider appropriate.

(b) **FUNCTIONS.**—The Secretary is authorized to carry out through the Service programs and activities, including—

- (1) cooperative research programs; and
- (2) agricultural extension and education programs.

**SEC. 803. AGRICULTURAL ECONOMICS AND STATISTICS SERVICE.**

(a) **ESTABLISHMENT.**—The Secretary may establish and maintain within the Department the Agricultural Economics and Statistics Service (referred to in this section as the "Service") and to assign to the Service such functions as the Secretary may consider appropriate.

(b) **FUNCTIONS.**—The Secretary may carry out through the Service, or through any other officer or administrative unit as the Secretary may consider appropriate, programs and activities, including—

- (1) economic analysis and research;
- (2) energy-related programs;
- (3) crop and livestock estimates; and
- (4) agricultural statistics.

(c) **STATE AND LOCAL STATISTICAL OFFICES AND PERSONNEL.**—The authority provided by subsections (a) and (b) shall not authorize a substantial change in the functions or structures of State and local statistical offices and employees of the offices.

**SEC. 804. PROGRAM POLICY AND COORDINATION STAFF.**

(a) **ESTABLISHMENT.**—The Secretary is authorized to establish and maintain within the Department the Program Policy and Coordination Staff (referred to in this section as the "Staff") and to assign to the Staff such functions as the Secretary may consider appropriate.

(b) **FUNCTIONS.**—If the Staff is established and maintained, the Staff shall provide common program policy development for the Federal Research and Information Service, the Cooperative State Research and Education Service, and the Agricultural Economics and Statistics Service.

(c) **COMPOSITION.**—Not less than 50 percent of the employees of the Staff shall be former employees of the Cooperative State Research Service and the Extension Service, as in existence on the date of enactment of this Act.

(d) **RELATIONSHIP TO FUNCTIONS CURRENTLY PERFORMED BY NASS.**—The Staff may not—

- (1) interfere with statistic collection and reporting; or
- (2) compromise the independence or integrity of statistic collection and reporting functions of the National Agricultural Statistics Service as in effect on the date of enactment of this Act.

**TITLE IX—FOOD SAFETY****SEC. 901. FOOD SAFETY SERVICE.**

(a) **MEAT INSPECTION.**—The Federal Meat Inspection Act (21 U.S.C. 601 et seq.) is amended by adding at the end the following new title:

**"TITLE V—FOOD SAFETY SERVICE****"SEC. 501. FOOD SAFETY SERVICE.**

"(a) **IN GENERAL.**—The Secretary shall establish and maintain within the United States Department of Agriculture the Food Safety Service (referred to in this section as the "Service") and to assign to the Service such functions as the Secretary may consider appropriate.

"(b) **ASSISTANT SECRETARY FOR FOOD SAFETY.**—

"(1) **APPOINTMENT.**—There shall be in the Service the position of Assistant Secretary for Food Safety (referred to in this section as the "Assistant Secretary"), who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) **CONTINUITY OF THE POSITION.**—Any official serving on the date of enactment of this section, who has been appointed by the President and confirmed by the Senate, shall not be required to be reconfirmed by reason of the enactment of this Act.

"(3) **RELATIONSHIP TO THE SECRETARY.**—The Assistant Secretary shall report directly to the Secretary.

"(4) **GENERAL POWERS.**—The Secretary is authorized to carry out, through the Service or through such other officers or administrative units as the Secretary may consider appropriate, programs and activities involving food safety under this Act and the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), including—

"(A) providing overall direction to the Service and establishing and implementing general policies concerning the management and operation of programs and inspection activities of the Service;

"(B) coordinating and overseeing the operation of all administrative entities within the Service;

"(C) research and inspection relating to meat, meat food products, poultry, and poultry products in carrying out this Act and the Poultry Products Inspection Act;

"(D) conducting educational and public information programs relating to the responsibilities of the Service; and

"(E) performing such other functions related to food safety as the Secretary may prescribe, except that only programs and activities related to food safety, as determined by the Secretary, shall be administered through the Service.

"(c) **TECHNICAL AND SCIENTIFIC REVIEW GROUPS.**—The Secretary, acting through the Assistant Secretary, may, without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates—

"(1) establish such technical and scientific review groups as are needed to carry out the functions of the Service, including functions under this Act and under the Poultry Products Inspection Act (21 U.S.C. 451 et seq.); and

"(2) appoint and pay the members of the groups, except that officers and employees of the United States shall not receive additional compensation for service as a member of a group."

(b) **POULTRY PRODUCTS INSPECTION.**—The Poultry Products Inspection Act (21 U.S.C. 451 et seq.) is amended—

(1) by redesignating section 29 as section 30; and

(2) by inserting after section 28 the following new section:

**"SEC. 29. ADMINISTRATION.**

"The Secretary shall administer this Act through the Assistant Secretary for Food Safety of the Food Safety Service established under section 501 of the Federal Meat Inspection Act."

**TITLE X—MISCELLANEOUS****SEC. 1001. ASSISTANT SECRETARIES OF AGRICULTURE.**

(a) **ESTABLISHMENT.**—There are established in the Department six positions of Assistant

Secretary of Agriculture, each to be appointed by the President, by and with the advice and consent of the Senate.

(b) **FUNCTIONS.**—Each Assistant Secretary of Agriculture shall exercise such functions and perform such duties as may be required by law or prescribed by the Secretary, and shall receive compensation at the rate prescribed by law for an Assistant Secretary of Agriculture. The compensation of any person serving as an Administrator shall not be raised by this Act.

(c) **CONFORMING AMENDMENTS.**—

(1) Section 2 of the Act of February 9, 1889 (25 Stat. 659, chapter 122; 7 U.S.C. 2212), is repealed.

(2) Section 604 of the Rural Development Act of 1972 (7 U.S.C. 2212a) is amended by striking subsection (a).

(3) Section 2 of Public Law No. 94-561 (7 U.S.C. 2212b) is repealed.

(4) Section 1413 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3128) is amended by striking subsection (d).

(5) Section 8 of the International Carriage of Perishable Foodstuffs Act (7 U.S.C. 2212c) is amended by striking subsection (a).

(d) **CONTINUITY OF POSITIONS.**—Notwithstanding subsections (a) and (b) and the amendments made by subsection (c), any official serving in any of the positions referred to in this section on the date of enactment of this Act, after appointment by the President, by and with the advice and consent of the Senate, shall be considered after the date of enactment of this Act to be serving in the successor positions established by subsection (a) and shall not be required to be reappointed by reason of the enactment of this Act.

(e) **ADDITIONAL CONFORMING AMENDMENTS.**—Section 5315 of title 5, United States Code, is amended—

(1) by striking "Assistant Secretaries of Agriculture (7)" and inserting "Assistant Secretaries of Agriculture (six)"; and

(2) by adding at the end the following:

"Administrator, Farm Service Agency, Department of Agriculture.

"Administrator, International Trade Service, Department of Agriculture.

"Administrator, Rural Utilities Service, Department of Agriculture."

**SEC. 1002. REMOVAL OF OBSOLETE PROVISIONS.** Section 5316 of title 5, United States Code, is amended—

(1) by striking "Administrator, Agricultural Marketing Service, Department of Agriculture.;"

(2) by striking "Administrator, Agricultural Research Service, Department of Agriculture.;"

(3) by striking "Administrator, Agricultural Stabilization and Conservation Service, Department of Agriculture.;"

(4) by striking "Administrator, Farmers Home Administration.;"

(5) by striking "Administrator, Foreign Agricultural Service, Department of Agriculture.;"

(6) by striking "Administrator, Rural Electrification Administration, Department of Agriculture.;"

(7) by striking "Administrator, Soil Conservation Service, Department of Agriculture.;"

(8) by striking "Chief Forester of the Forest Service, Department of Agriculture.;"

(9) by striking "Director of Science and Education, Department of Agriculture.;"

(10) by striking "Administrator, Animal and Plant Health Inspection Service, Department of Agriculture.;" and

(11) by striking "Administrator, Federal Grain Inspection Service, Department of Agriculture."

**SEC. 1003. ADDITIONAL CONFORMING AMENDMENTS.**

Not later than 180 days after the date of enactment of this Act, the Secretary shall prepare and submit to Congress recommended legislation containing additional technical and conforming amendments to Federal law that are necessary as a result of the enactment of this Act.

**SEC. 1004. TERMINATION OF AUTHORITY.**

(a) IN GENERAL.—Subject to subsection (b), the authority delegated to the Secretary by this Act to reorganize the Department shall terminate on the date that is 2 years after the date of enactment of this Act.

(b) FUNCTIONS.—Subsection (a) shall not affect—

(1) the authority of the Secretary to continue to carry out a function that the Secretary performs on the date that is 2 years after the date of enactment of this Act; or

(2) the authority delegated to the Secretary under Reorganization Plan No. 2 of 1953 (5 U.S.C. App. 1).

**SEC. 1005. ELIMINATION OF DUPLICATIVE INSPECTION REQUIREMENTS.**

(a) IN GENERAL.—The Secretary of Agriculture shall—

(1) eliminate inspections of pilots and aircraft by the Department of Agriculture;

(2) develop with the Administrator of the Federal Aviation Administration inspection specifications and procedures by which aircraft and pilots contracted by the United States Department of Agriculture will be inspected. The Administrator will ensure that the inspection specifications and procedures are met; and

(3) permit the utilization by the Department of Agriculture of inspections and certifications of pilots and aircraft conducted by the Federal Aviation Administration.

(b) APPLICABILITY.—An inspection requirement shall be eliminated pursuant to subsection (a)(1) only if the pilots and aircraft are inspected by the Federal Aviation Administration for compliance with the safety regulations of the Federal Aviation Regulations.

MOTION OFFERED BY MR. DE LA GARZA

Mr. DE LA GARZA. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DE LA GARZA moves to strike out all after the enacting clause of S. 1970 and insert in lieu thereof the provisions of H.R. 3171 as passed by the House, as follows:

Resolved, That the bill from the Senate (S. 1970) entitled "An Act to authorize the Secretary of Agriculture to reorganize the Department of Agriculture, and for other purposes", do pass with the following

**AMENDMENT:**

Strike out all after the enacting clause and insert:

**SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Department of Agriculture Reorganization Act of 1994".

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

Sec. 1. Short title and table of contents.

Sec. 2. Definitions.

**TITLE I—GENERAL REORGANIZATION AUTHORITIES**

Sec. 101. Transfer of Department functions to Secretary of Agriculture.

Sec. 102. Reductions in number of Department personnel.

Sec. 103. Combination of field offices.

Sec. 104. Improvement of information sharing.

Sec. 105. Director of External Affairs.

Sec. 106. Director for Administration.

**TITLE II—FARM AND FOREIGN AGRICULTURAL SERVICES**

Sec. 201. Under Secretary of Agriculture for Farm and Foreign Agricultural Services.

Sec. 202. Agricultural Service Agency.

Sec. 203. State, county, and area committees.

**TITLE III—RURAL ECONOMIC AND COMMUNITY DEVELOPMENT**

Sec. 301. Under Secretary of Agriculture for Rural Economic and Community Development.

**TITLE IV—FOOD, NUTRITION, AND CONSUMER SERVICES**

Sec. 401. Under Secretary of Agriculture for Food, Nutrition, and Consumer Services.

**TITLE V—NATURAL RESOURCES AND ENVIRONMENT**

Sec. 501. Under Secretary of Agriculture for Natural Resources and Environment.

**TITLE VI—RESEARCH, EDUCATION, AND ECONOMICS**

Sec. 601. Under Secretary of Agriculture for Research, Education, and Economics.

**TITLE VII—FOOD SAFETY**

Sec. 701. Under Secretary of Agriculture for Food Safety.

**TITLE VIII—NATIONAL APPEALS DIVISION**

Sec. 801. Definitions.

Sec. 802. National Appeals Division and Director.

Sec. 803. Transfer of functions.

Sec. 804. Notice and opportunity for hearing.

Sec. 805. Informal hearings.

Sec. 806. Right of participants to division hearing.

Sec. 807. Division hearings.

Sec. 808. Director review of determinations of hearing officers.

Sec. 809. Judicial review.

Sec. 810. Implementation of final determinations of division.

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**TITLE IX—MISCELLANEOUS PROVISIONS**

Sec. 901. Successorship provisions relating to bargaining units and exclusive representatives.

Sec. 902. Office of environmental risk assessment.

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Sec. 904. Repeal of superseded provisions.

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Sec. 907. Purchase of American-made equipment and products.

Sec. 908. Conditions on implementation of alteration in level of selenium allowed in animal diets.

**SEC. 2. DEFINITIONS.**

Except where the context requires otherwise, for purposes of this Act:

(1) DEPARTMENT.—The term "Department" means the Department of Agriculture.

(2) NATIONAL APPEALS DIVISION.—The term "National Appeals Division" means the National Appeals Division of the Department established under section 802.

(3) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

**TITLE I—GENERAL REORGANIZATION AUTHORITIES**

**SEC. 101. TRANSFER OF DEPARTMENT FUNCTIONS TO SECRETARY OF AGRICULTURE.**

(a) TRANSFER OF FUNCTIONS.—Except as provided in subsection (b), there are hereby transferred to the Secretary of Agriculture all functions of all agencies, offices, officers, and employees of the Department that are not already vested in the Secretary as of the date of the enactment of this Act.

(b) EXCEPTIONS.—Subsection (a) shall not apply to the following functions:

(1) Functions vested by subchapter II of chapter 5 of title 5, United States Code, in administrative law judges employed by the Department.

(2) Functions vested by the Inspector General Act of 1978 (5 U.S.C. App.) in the Inspector General of the Department.

(3) Functions vested by chapter 9 of title 31, United States Code, in the Chief Financial Officer of the Department.

(4) Functions vested in the corporations of the Department or the boards of directors and officers of such corporations.

(5) Functions vested in the Alternative Agricultural Research and Commercialization Board by the Alternative Agricultural Research and Commercialization Act of 1990 (7 U.S.C. 5901 et seq.).

(6) Functions vested in the advisory board of the Commodity Credit Corporation established by section 9(b) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714g(b)).

(c) DELEGATION OF AUTHORITY.—

(1) DELEGATION AUTHORIZED.—Subject to paragraph (2), the Secretary may delegate to any agency, office, officer, or employee of the Department the authority to perform any function transferred to the Secretary under subsection (a) or any other function vested in the Secretary as of the date of the enactment of this Act.

(2) EXCEPTION.—The delegation authority provided by paragraph (1) shall be subject to—

(A) sections 105(b)(1), 106(b)(1), 201(b)(1), 202(b)(1), 301(b)(1), 401(b)(1), 501(b)(1), 601(b)(1), 601(c)(2), 701(b)(1), 803, and 904 of this Act;

(B) sections 502 and 503 of the Agricultural Trade Act of 1978 (7 U.S.C. 5692 and 5693); and

(C) section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)), as amended by section 203(a) of this Act.

(d) COST-BENEFIT ANALYSIS REQUIRED FOR NAME CHANGE.—

(1) ANALYSIS REQUIRED.—Except as provided in paragraph (2), the Secretary shall conduct a cost-benefit analysis before changing the name of any agency, office, division, or other unit of the Department to ensure that the benefits to be derived from changing the name of the agency, office, division, or other unit outweigh the expense of executing the name change.

(2) EXCEPTION.—Paragraph (1) shall not apply with respect to any name change specifically provided for in this Act.

(e) PUBLIC COMMENT ON PROPOSED REORGANIZATION.—To the extent that the implementation of the authority provided to the Secretary by this Act to reorganize the Department involves the creation of new agencies or offices within the Department or the delegation of major functions or major groups of functions to any agency or office of the Department (or the officers thereof), the Secretary shall, to the extent considered practicable by the Secretary—

(1) give appropriate advance public notice of the proposed reorganization action or delegation; and

(2) afford appropriate opportunity for interested parties to comment on the proposed reorganization action or delegation.

(f) INTERAGENCY TRANSFER OF RECORDS, PROPERTY, PERSONNEL, AND FUNDS.—

(1) RELATED TRANSFERS.—Subject to paragraph (2), as part of the transfer or delegation of a function of the Department made or authorized by this Act, the Secretary may transfer within the Department—

(A) any of the records, property, or personnel affected by the transfer or delegation of the function; and

(B) unexpended balances (available or to be made available for use in connection with the transferred or delegated function) of appropriations, allocations, or other funds of the Department.

(2) APPLICABLE LAW RELATING TO FUNDS TRANSFER.—Section 1531 of title 31, United States Code, shall apply to any transfer of funds under paragraph (1).

#### SEC. 102. REDUCTIONS IN NUMBER OF DEPARTMENT PERSONNEL.

(a) NUMBER OF REDUCTIONS REQUIRED.—The Secretary shall achieve Federal employee reductions of at least 7,500 staff years within the Department by the end of fiscal year 1999. Reductions in the number of full-time equivalent positions within the Department achieved under section 5 of the Federal Workforce Restructuring Act of 1994 (Public Law 103-226; 108 Stat. 115; 5 U.S.C. 3101 note) shall be counted toward the employee reductions required under this section.

(b) TOP-DOWN REDUCTIONS REQUIRED.—In achieving the employee reductions required in subsection (a), the Secretary shall ensure that the percentage by which total employee staff years in headquarters offices is reduced is at least twice as great as the percentage by which total employee staff years in field offices is reduced.

#### SEC. 103. COMBINATION OF FIELD OFFICES.

(a) COMBINATION OF OFFICES REQUIRED.—The Secretary shall combine field offices of agencies within the Department, where practicable and to the extent consistent with efficiency, effectiveness, and service to farmers, improve service to clients and reduce personnel and duplicative overhead expenses.

(b) JOINT USE OF RESOURCES AND OFFICES REQUIRED.—When two or more agencies share a common field office, the Secretary shall require the agencies to jointly use office space, equipment, office supplies, administrative personnel, and clerical personnel associated with that field office.

#### SEC. 104. IMPROVEMENT OF INFORMATION SHARING.

Whenever the Secretary procures or uses computer systems, as may be provided for in advance in appropriations Acts, the Secretary shall do so in a manner that enhances efficiency, productivity, and client services and is consistent with the goal of promoting computer information sharing among agencies of the Department.

#### SEC. 105. DIRECTOR OF EXTERNAL AFFAIRS.

(a) ESTABLISHMENT.—There is established in the Department the position of Director of External Affairs of the Department of Agriculture. The Director of External Affairs shall be appointed by the President, by and with the advice and consent of the Senate.

(b) FUNCTIONS OF DIRECTOR.—

(1) PRINCIPAL FUNCTIONS.—The Secretary shall delegate to the Director of External Affairs those functions and duties that were under the jurisdiction of the Assistant Secretary of Agriculture for Congressional Relations and the Director of Public Affairs of the Department as of the date of the enactment of this Act.

(2) ADDITIONAL FUNCTIONS.—The Director of External Affairs shall perform such other duties as may be required by law or prescribed by the Secretary.

(c) SUCCESSION.—Any official who is serving as Assistant Secretary of Agriculture for Con-

gressional Relations on the date of the enactment of this Act and who was appointed by the President, by and with the advice and consent of the Senate—

(1) shall be considered to be serving in the successor position established by subsection (a); and

(2) shall not be required to be reappointed to that position by reason of the enactment of this Act.

(d) CONFORMING AMENDMENT.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Director of External Affairs of the Department of Agriculture."

#### SEC. 106. DIRECTOR FOR ADMINISTRATION.

(a) ESTABLISHMENT.—There is established in the Department the position of Director for Administration of the Department of Agriculture. The Director for Administration shall be appointed by the President, by and with the advice and consent of the Senate.

(b) FUNCTIONS OF DIRECTOR.—

(1) PRINCIPAL FUNCTIONS.—The Secretary shall delegate to the Director for Administration those functions and duties that were under the jurisdiction of the Assistant Secretary for Administration of the Department as of the date of the enactment of this Act.

(2) ADDITIONAL FUNCTIONS.—The Director for Administration shall perform such other duties as may be required by law or prescribed by the Secretary.

(c) SUCCESSION.—Any official who is serving as Assistant Secretary of Agriculture for Administration on the date of the enactment of this Act and who was appointed by the President, by and with the advice and consent of the Senate—

(1) shall be considered to be serving in the successor position established by subsection (a); and

(2) shall not be required to be reappointed to that position by reason of the enactment of this Act.

(d) CONFORMING AMENDMENT.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Director for Administration of the Department of Agriculture."

### TITLE II—FARM AND FOREIGN AGRICULTURAL SERVICES

#### SEC. 201. UNDER SECRETARY OF AGRICULTURE FOR FARM AND FOREIGN AGRICULTURAL SERVICES.

(a) ESTABLISHMENT.—There is established in the Department the position of Under Secretary of Agriculture for Farm and Foreign Agricultural Services. The Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(b) FUNCTIONS OF UNDER SECRETARY.—

(1) PRINCIPAL FUNCTIONS.—The Secretary shall delegate to the Under Secretary of Agriculture for Farm and Foreign Agricultural Services those functions and duties under the jurisdiction of the Department that are related to farm and foreign agricultural services.

(2) ADDITIONAL FUNCTIONS.—The Under Secretary of Agriculture for Farm and Foreign Agricultural Services shall perform such other functions and duties as may be required by law or prescribed by the Secretary.

(c) SUCCESSION.—Any official who is serving as Under Secretary of Agriculture for International Affairs and Commodity Programs on the date of the enactment of this Act and who was appointed by the President, by and with the advice and consent of the Senate—

(1) shall be considered to be serving in the successor position established by subsection (a); and

(2) shall not be required to be reappointed to that position by reason of the enactment of this Act.

(d) CONFORMING AMENDMENTS.—

(1) EXISTING POSITION.—Section 501 of the Agricultural Trade Act of 1978 (7 U.S.C. 5691), relating to the Under Secretary of Agriculture for International Affairs and Commodity Programs, is repealed.

(2) EXECUTIVE SCHEDULE.—Section 5314 of title 5, United States Code, is amended by striking "Under Secretary of Agriculture for International Affairs and Commodity Programs." and inserting "Under Secretary of Agriculture for Farm and Foreign Agricultural Services."

#### SEC. 202. AGRICULTURAL SERVICE AGENCY.

(a) ESTABLISHMENT.—The Secretary shall establish and maintain an Agricultural Service Agency within the Department.

(b) FUNCTIONS OF AGRICULTURAL SERVICE AGENCY.—

(1) PRINCIPAL FUNCTIONS.—The Secretary shall carry out through the Agricultural Service Agency the following activities that are under the jurisdiction of the Department:

(A) Agricultural price and income support programs and related programs.

(B) General supervision of the Federal Crop Insurance Corporation.

(C) Notwithstanding any other provision of law, agricultural credit programs formerly assigned by law to the Farmers Home Administration (including farm ownership and operating, emergency, and disaster loan programs) and other lending programs for farmers and others engaged in the production of agricultural commodities.

(D) Agricultural conservation cost-share and demonstration programs carried out by the Agricultural Stabilization and Conservation Service or the Farmers Home Administration as of the date of the enactment of this Act.

(2) ADDITIONAL FUNCTIONS.—The Secretary may assign to the Agricultural Service Agency such additional functions as the Secretary considers appropriate in connection with the administration and implementation of authorities assigned to the Secretary by law.

(c) JURISDICTION OVER CONSERVATION PROGRAM APPEALS.—

(1) IN GENERAL.—Until such time as an adverse decision described in this paragraph is referred to the National Appeals Division for consideration, the Agricultural Service Agency shall have initial jurisdiction over any administrative appeal resulting from an adverse decision made under title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.), including an adverse decision involving technical determinations made by the Soil Conservation Service.

(2) TREATMENT OF TECHNICAL DETERMINATION.—With respect to administrative appeals involving a technical determination made by the Soil Conservation Service, the Agricultural Service Agency, by rule with the concurrence of the Soil Conservation Service, shall establish procedures for obtaining review by the Soil Conservation Service of the technical determinations involved. Such rules shall ensure that technical criteria established by the Soil Conservation Service shall be used by the Agricultural Service Agency as the basis for any decisions regarding technical determinations.

(3) REINSTATEMENT OF PROGRAM BENEFITS.—Rules issued to carry out this subsection shall provide for the prompt reinstatement of benefits to a producer who is determined in an administrative appeal to meet the requirements of title XII of the Food Security Act of 1985 applicable to the producer.

(4) DEFINITION.—For purposes of this subsection, the term "Soil Conservation Service" includes any successor agency to the Soil Conservation Service.

(d) USE OF FEDERAL AND NON-FEDERAL EMPLOYEES.—

(1) USE AUTHORIZED.—In the implementation of programs and activities assigned to the Agricultural Service Agency, the Secretary may use

interchangeably in local offices of the agency both Federal employees of the Department and non-Federal employees of county and area committees established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)).

(2) **EXCEPTION.**—Notwithstanding paragraph (1), no personnel action (as defined in section 2302(a)(2)(A) of title 5, United States Code) may be taken with respect to a Federal employee unless such action is taken by another Federal employee.

(e) **CONFORMING AMENDMENTS.**—

(1) **CROP INSURANCE.**—The Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) is amended—

(A) in section 505(a) (7 U.S.C. 1505(a)), by striking "the Under Secretary or Assistant Secretary of Agriculture responsible for the farm credit programs of the Department of Agriculture," and inserting "one additional Under Secretary of Agriculture as designated by the Secretary,"; and

(B) in section 507(d) (7 U.S.C. 1507(d)), by striking " , except" and all that follows through "agency".

(2) **FARM AND RURAL DEVELOPMENT.**—Section 331(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981(a)) is amended by striking "assets to the Farmers Home Administration" and all that follows through the period and inserting "assets to such officers or agencies of the Department of Agriculture as the Secretary considers appropriate."

**SEC. 203. STATE, COUNTY, AND AREA COMMITTEES.**

(a) **AMENDMENT TO THE SOIL CONSERVATION AND DOMESTIC ALLOTMENT ACT.**—Section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) is amended—

(1) by inserting "(1)" after "(b)";

(2) by designating the second through eighth undesignated paragraphs as paragraphs (2) through (8), respectively; and

(3) by striking paragraph (5) (as so designated) and inserting the following new paragraph:

"(5) **STATE, COUNTY, AND AREA COMMITTEES.**—

"(A) **APPOINTMENT OF STATE COMMITTEES.**—The Secretary shall appoint in each State a State committee composed of not fewer than 3 nor more than 5 members who are fairly representative of the farmers in the State. The members of a State committee shall serve at the pleasure of the Secretary for such term as the Secretary may establish.

"(B) **ESTABLISHMENT OF COUNTY OR AREA COMMITTEES.**—(i) In each county or area in which activities are carried out under this section, the Secretary shall establish a county or area committee. In the case of a county committee in existence on the date of the enactment of the Department of Agriculture Reorganization Act of 1994, the Secretary may not terminate the county committee, alter the boundaries of the area covered by the committee, or consolidate the committee with other county committees, without the consent of a majority of the producers in the area covered by the committee, as determined in a referendum conducted by the Secretary.

"(ii) Any such committee shall consist of not fewer than 3 nor more than 5 members who are fairly representative of the farmers in the county or area and who shall be elected by the farmers in such county or area under such procedures as the Secretary may prescribe.

"(iii) Only farmers within a local administrative area who are producers who participate or cooperate in programs administered within their area shall be eligible for nomination and election to the local committee for that area.

"(iv) The Secretary shall solicit and accept nominations from organizations representing the interests of socially disadvantaged groups (as

defined in section 355(e)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(e)(1)).

"(v) Members of each county or area committee shall serve for terms not to exceed 3 years.

"(C) **USE OF COMMITTEES.**—The Secretary shall use the services of such committees in carrying out programs under this section and the agricultural credit programs under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) and in considering administrative appeals under the jurisdiction of the Agricultural Service Agency, as provided by section 202(c) of the Department of Agriculture Reorganization Act of 1994. In addition, to the extent the Secretary determines appropriate, the Secretary may use the services of such committees in carrying out programs under other authorities administered by the Secretary.

"(D) **REGULATIONS.**—The Secretary shall issue such regulations as the Secretary considers necessary relating to the selection and exercise of the functions of the respective committees, and to the administration through such committees of the programs described in subparagraph (C). Pursuant to such regulations, each county and area committee shall select an executive director for the area or county. Such selection shall be made in the same manner as provided for the selection of the county executive director under section 7.21(b)(2) of title 7, Code of Federal Regulations, as in effect on January 1, 1994. Regulations governing payments or grants under this subsection shall be as simple and direct as possible, and, whenever practicable, they shall be classified on the following two bases:

"(i) Soil-depleting practices.

"(ii) Soil-building practices.

"(E) **MANDATORY DUTIES OF SECRETARY.**—In carrying out this section, the Secretary shall—

"(i) insofar as practicable, protect the interests of tenants and sharecroppers;

"(ii) accord such encouragement to producer-owned and producer-controlled cooperative associations as will be in harmony with the policy toward cooperative associations set forth in Federal laws and as will tend to promote efficient methods of marketing and distribution;

"(iii) in every practicable manner, protect the interests of small producers; and

"(iv) in every practical way, encourage and provide for soil-conserving and soil-rebuilding practices.

"(F) **DISCRETIONARY AUTHORITIES OF SECRETARY.**—In carrying out this section, the Secretary may use other approved agencies.

"(G) **LIMITATIONS.**—In carrying out this section, the Secretary shall not have the authority to acquire any land or any right or interest in land."

(b) **CONFORMING AMENDMENTS.**—The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) is amended—

(1) by striking section 332 (7 U.S.C. 1982); and

(2) in section 333 (7 U.S.C. 1983)—

(A) by striking paragraph (2); and

(B) redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.

**TITLE III—RURAL ECONOMIC AND COMMUNITY DEVELOPMENT**

**SEC. 301. UNDER SECRETARY OF AGRICULTURE FOR RURAL ECONOMIC AND COMMUNITY DEVELOPMENT.**

(a) **ESTABLISHMENT.**—There is established in the Department the position of Under Secretary of Agriculture for Rural Economic and Community Development. The Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(b) **FUNCTIONS OF UNDER SECRETARY.**—

(1) **PRINCIPAL FUNCTIONS.**—The Secretary shall delegate to the Under Secretary of Agriculture for Rural Economic and Community Development those functions and duties under the

jurisdiction of the Department that are related to rural economic and community development.

(2) **ADDITIONAL FUNCTIONS.**—The Under Secretary of Agriculture for Rural Economic and Community Development shall perform such other functions and duties as may be required by law or prescribed by the Secretary.

(c) **SUCCESSION.**—Any official who is serving as Under Secretary of Agriculture for Small Community and Rural Development on the date of the enactment of this Act and who was appointed by the President, by and with the advice and consent of the Senate—

(1) shall be considered to be serving in the successor position established by subsection (a); and

(2) shall not be required to be reappointed to that position by reason of the enactment of this Act.

(d) **LOAN APPROVAL AUTHORITY.**—Approval authority for loans and loan guarantees in the electric and telephone loan and loan guarantee programs authorized by the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) shall not be transferred to, or conditioned upon review of, a State director or other employee whose primary duty is not the review and approval of such loans or the provision of assistance to such borrowers.

(e) **CONFORMING AMENDMENTS.**—

(1) **EXISTING POSITION.**—Section 3 of the Rural Development Policy Act of 1980 (7 U.S.C. 2211b) is amended by striking subsection (a).

(2) **EXECUTIVE SCHEDULE.**—Section 5314 of title 5, United States Code, is amended by striking "Under Secretary of Agriculture for Small Community and Rural Development." and inserting "Under Secretary of Agriculture for Rural Economic and Community Development."

(f) **AMENDMENTS TO THE RURAL ELECTRIFICATION ACT OF 1936.**—The Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) is amended—

(1) in section 1 (7 U.S.C. 901), by striking the first sentence;

(2) in section 2(a) (7 U.S.C. 902(a)), by striking "Administrator" and inserting "Secretary of Agriculture";

(3) in section 3(a) (7 U.S.C. 903(a))—

(A) by striking "Administrator, upon the request and approval of the Secretary of Agriculture," and inserting "Secretary"; and

(B) by striking "Administrator appointed pursuant to the provisions of this Act or from the Administrator of the Rural Electrification Administration established by Executive Order Numbered 7037" and inserting "Secretary";

(4) in section 8 (7 U.S.C. 908)—

(A) by striking "Administrator authorized to be appointed by this Act" and inserting "Secretary"; and

(B) by striking "Rural Electrification Administration created by this Act" and inserting "Secretary";

(5) by striking section 11A (7 U.S.C. 911a);

(6) in section 13 (7 U.S.C. 913), by inserting before the period the following: "the term 'Secretary' shall be deemed to mean the Secretary of Agriculture";

(7) in sections 206(b)(2), 306A(b), 311, and 405(b)(1)(A) (7 U.S.C. 927(b)(2), 936a(b), 940a, and 945(b)(1)(A)), by striking "Rural Electrification Administration" each place it appears and inserting "Secretary";

(8) in sections 305(c)(2)(C)(ii)(II) and 306E(d) (7 U.S.C. 935(c)(2)(C)(ii)(II) and 936e(d)), by striking "ADMINISTRATOR" both places it appears and inserting "SECRETARY";

(9) in section 403(b) (7 U.S.C. 943(b)), by striking "Rural Electrification Administration or of any other agency of the Department of Agriculture," and inserting "Secretary";

(10) in section 404 (7 U.S.C. 944), by striking "the Administrator of the Rural Electrification Administration" and inserting "the Secretary

shall designate an official of the Department of Agriculture who";

(11) in sections 406(c) and 410 (7 U.S.C. 946(c) and 950), by striking "Administrator of the Rural Electrification Administration" each place it appears and inserting "Secretary";

(12) in the heading of section 501 (7 U.S.C. 950aa), by striking "of *rea* administrator"; and

(13) except as otherwise provided in this subsection, by striking "Administrator" each place it appears in such Act and inserting "Secretary".

(g) MISCELLANEOUS AMENDMENTS RELATED TO RURAL ELECTRIFICATION ADMINISTRATION.—(1) Section 236(a) of the Disaster Relief Act of 1970 (7 U.S.C. 912a) is amended by striking "Rural Electrification Administration" and inserting "Secretary under the Rural Electrification Act of 1936".

(2) Section 505 of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 915) is amended—

(A) by striking "Rural Electrification Administration" and inserting "Secretary of Agriculture"; and

(B) by striking "its" and inserting "the Secretary's".

(3) Section 401 of the Rural Electrification Act of 1938 (7 U.S.C. 903 note, 52 Stat. 818) is amended in the second paragraph by striking "Administrator of the Rural Electrification Administration" and inserting "Secretary of Agriculture".

(4) Chapter 1 of subtitle D of title XXIII of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 950aaa et seq.), relating to Distance Learning and Medical Link Programs, is amended—

(A) in section 2333—

(i) by striking paragraph (1); and

(ii) by redesignating paragraphs (2) through (11) as paragraphs (1) through (10), respectively;

(B) in section 2334(h)(2), by striking "section 2333(3)(F)" and inserting "section 2333(2)(F)"; and

(C) by striking "Administrator" each place it appears and inserting "Secretary".

#### TITLE IV—FOOD, NUTRITION, AND CONSUMER SERVICES

##### SEC. 401. UNDER SECRETARY OF AGRICULTURE FOR FOOD, NUTRITION, AND CONSUMER SERVICES.

(a) ESTABLISHMENT.—There is established in the Department the position of Under Secretary of Agriculture for Food, Nutrition, and Consumer Services. The Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(b) FUNCTIONS OF UNDER SECRETARY.—

(1) PRINCIPAL FUNCTIONS.—The Secretary shall delegate to the Under Secretary of Agriculture for Food, Nutrition, and Consumer Services those functions and duties under the jurisdiction of the Department that are related to food, nutrition, and consumer services (except as provided in section 701(b)(1)).

(2) ADDITIONAL FUNCTIONS.—The Under Secretary of Agriculture for Food, Nutrition, and Consumer Services shall perform such other functions and duties as may be required by law or prescribed by the Secretary.

(c) SUCCESSION.—Any official who is serving as Assistant Secretary of Agriculture for Food and Consumer Services on the date of the enactment of this Act and who was appointed by the President, by and with the advice and consent of the Senate—

(1) shall be considered to be serving in the successor position established by subsection (a); and

(2) shall not be required to be reappointed to that position by reason of the enactment of this Act.

(d) EXECUTIVE SCHEDULE.—Section 5314 of title 5, United States Code, is amended by insert-

ing after the item relating to the Under Secretary of Agriculture for Farm and Foreign Agricultural Services (as added by section 201(d)(2)) the following:

"Under Secretary of Agriculture for Food, Nutrition, and Consumer Services."

#### TITLE V—NATURAL RESOURCES AND ENVIRONMENT

##### SEC. 501. UNDER SECRETARY OF AGRICULTURE FOR NATURAL RESOURCES AND ENVIRONMENT.

(a) ESTABLISHMENT.—There is established in the Department the position of Under Secretary of Agriculture for Natural Resources and Environment. The Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(b) FUNCTIONS OF UNDER SECRETARY.—

(1) PRINCIPAL FUNCTIONS.—The Secretary shall delegate to the Under Secretary of Agriculture for Natural Resources and Environment those functions and duties under the jurisdiction of the Department that are related to natural resources and the environment (except to the extent those functions and duties are delegated to the Agricultural Service Agency under section 202).

(2) ADDITIONAL FUNCTIONS.—The Under Secretary of Agriculture for Natural Resources and Environment shall perform such other functions and duties as may be required by law or prescribed by the Secretary.

(c) SUCCESSION.—Any official who is serving as Assistant Secretary of Agriculture for Natural Resources and Environment on the date of the enactment of this Act and who was appointed by the President, by and with the advice and consent of the Senate—

(1) shall be considered to be serving in the successor position established by subsection (a); and

(2) shall not be required to be reappointed to that position by reason of the enactment of this Act.

(d) EXECUTIVE SCHEDULE.—Section 5314 of title 5, United States Code, is amended by inserting after the item relating to the Under Secretary of Agriculture for Food, Nutrition, and Consumer Services (as added by section 401(d)) the following:

"Under Secretary of Agriculture for Natural Resources and Environment."

(e) CONFORMING AMENDMENTS.—

(1) SOIL CONSERVATION SERVICE.—Section 5 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590e) is repealed.

(2) SOIL AND WATER RESOURCES CONSERVATION.—The Soil and Water Resources Conservation Act of 1977 (16 U.S.C. 2001) is amended—

(A) in section 2(2) (16 U.S.C. 2001(2))—

(i) by striking "created the Soil Conservation Service"; and

(ii) by striking "Department of Agriculture which" and inserting "has ensured that the Department of Agriculture";

(B) in section 3(2) (16 U.S.C. 2002(2)), by striking "through the Soil Conservation Service"; and

(C) in section 6(a) (16 U.S.C. 2005(a)), by striking "Soil Conservation Service" and inserting "Secretary".

#### TITLE VI—RESEARCH, EDUCATION, AND ECONOMICS

##### SEC. 601. UNDER SECRETARY OF AGRICULTURE FOR RESEARCH, EDUCATION, AND ECONOMICS.

(a) ESTABLISHMENT.—There is established in the Department the position of Under Secretary of Agriculture for Research, Education, and Economics. The Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(b) FUNCTIONS OF UNDER SECRETARY.—

(1) PRINCIPAL FUNCTIONS.—The Secretary shall delegate to the Under Secretary of Agri-

culture for Research, Education, and Economics those functions and duties under the jurisdiction of the Department that are related to research, education, and economics.

(2) ADDITIONAL FUNCTIONS.—The Under Secretary of Agriculture for Research, Education, and Economics shall perform such other functions and duties as may be required by law or prescribed by the Secretary.

(c) COOPERATIVE STATE RESEARCH AND EDUCATION SERVICE.—

(1) ESTABLISHMENT.—The Secretary shall establish and maintain within the Department a Cooperative State Research and Education Service.

(2) DUTIES.—The Secretary shall delegate to the Cooperative State Research and Education Service functions related to cooperative State research programs and cooperative extension and education programs that are under the jurisdiction of the Department.

(3) OFFICER-IN-CHARGE.—The officer in charge of the Cooperative State Research and Education Service shall report directly to the Under Secretary of Agriculture for Research, Education, and Economics.

(d) EXECUTIVE SCHEDULE.—Section 5314 of title 5, United States Code, is amended by inserting after the item relating to the Under Secretary of Agriculture for Natural Resources and Environment (as added by section 501(d)) the following:

"Under Secretary of Agriculture for Research, Education, and Economics."

#### TITLE VII—FOOD SAFETY

##### SEC. 701. UNDER SECRETARY OF AGRICULTURE FOR FOOD SAFETY.

(a) ESTABLISHMENT.—There is established in the Department of Agriculture the position of Under Secretary of Agriculture for Food Safety. The Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals with specialized training or significant experience in food safety or public health programs.

(b) FUNCTIONS OF UNDER SECRETARY.—

(1) PRINCIPAL FUNCTIONS.—The Secretary shall delegate to the Under Secretary of Agriculture for Food Safety those functions and duties under the jurisdiction of the Department that are related to food safety.

(2) ADDITIONAL FUNCTIONS.—The Under Secretary of Agriculture for Food Safety shall perform such other functions and duties as may be required by law or prescribed by the Secretary.

(c) EXECUTIVE SCHEDULE.—Section 5314 of title 5, United States Code, is amended by inserting after the item relating to the Under Secretary of Agriculture for Research, Education, and Economics (as added by section 601(d)) the following:

"Under Secretary of Agriculture for Food Safety."

#### TITLE VIII—NATIONAL APPEALS DIVISION

##### SEC. 801. DEFINITIONS.

For purposes of this title:

(1) ADVERSE DECISION.—The term "adverse decision" means an administrative decision made by an officer, employee, or committee of an agency that is adverse to a participant. The term includes a denial of equitable relief by an agency or the failure of an agency to issue a decision or otherwise act on the request or right of the participant. The term does not include a decision over which the Board of Contract Appeals has jurisdiction.

(2) AGENCY.—The term "agency" means any agency of the Department designated by the Secretary or a successor agency of the Department, except that the term shall include the following (and any successor to the following):

(A) The Agricultural Service Agency.

(B) The Commodity Credit Corporation, with respect to domestic programs.

(C) The Farmers Home Administration.  
 (D) The Federal Crop Insurance Corporation.  
 (E) The Rural Development Administration.  
 (F) The Soil Conservation Service.  
 (G) A State, county, or area committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)).

(3) **APPELLANT.**—The term "appellant" means a participant who appeals an adverse decision in accordance with this title.

(4) **CASE RECORD.**—The term "case record" means all the materials maintained by the Secretary related to an adverse decision.

(5) **DIRECTOR.**—The term "Director" means the Director of the Division.

(6) **DIVISION.**—The term "Division" means the National Appeals Division established by this title.

(7) **HEARING OFFICER.**—The term "hearing officer" means an individual employed by the Division who hears and determines appeals of adverse decisions by any agency.

(8) **PARTICIPANT.**—The term "participant" means any individual, partnership, corporation, association, cooperative, or other entity whose application for, or right to participate in or receive, payments or loans in accordance with any of the programs administered by an agency is affected by an adverse decision of an agency.

**SEC. 802. NATIONAL APPEALS DIVISION AND DIRECTOR.**

(a) **ESTABLISHMENT OF DIVISION.**—The Secretary shall establish and maintain an independent National Appeals Division within the Department to carry out this title.

(b) **DIRECTOR.**—

(1) **APPOINTMENT.**—The Division shall be headed by a Director, appointed by the Secretary from among persons who have substantial experience in practicing administrative law. In considering applicants for the position of Director, the Secretary shall consider persons currently employed outside Government as well as Government employees.

(2) **TERM AND REMOVAL.**—The Director shall serve for a 6-year term of office, and shall be eligible for reappointment. The Director shall not be subject to removal during the term of office, except for cause established in accordance with law.

(3) **POSITION CLASSIFICATION.**—The position of the Director may not be a position in the excepted service or filled by a noncareer appointee.

(c) **DIRECTION, CONTROL, AND SUPPORT.**—The Director shall be free from the direction and control of any person other than the Secretary. The Division shall not receive administrative support (except on a reimbursable basis) from any agency other than the Office of the Secretary. The Secretary may not delegate to any other officer or employee of the Department, other than the Director, the authority of the Secretary with respect to the Division.

(d) **DETERMINATION OF APPEALABILITY OF AGENCY DECISIONS.**—If an officer, employee, or committee of an agency determines that a decision is not appealable and a participant appeals the decision to the Director, the Director shall determine whether the decision is adverse to the individual participant and thus appealable or is a matter of general applicability and thus not subject to appeal. The determination of the Director as to whether a decision is appealable shall be administratively final.

(e) **DIVISION PERSONNEL.**—The Director shall appoint such hearing officers and other employees as are necessary for the administration of the Division. A hearing officer or other employee of the Division shall have no duties other than those that are necessary to carry out this title.

**SEC. 803. TRANSFER OF FUNCTIONS.**

There are transferred to the Division all functions exercised and all administrative appeals

pending before the effective date of this title (including all related functions of any officer or employee) of or relating to—

(1) the National Appeals Division established by section 426(c) of the Agricultural Act of 1949 (7 U.S.C. 1433e(c)) (as in effect on the day before the date of the enactment of this Act);

(2) the National Appeals Division established by subsections (d) through (g) of section 333B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983b) (as in effect on the day before the date of the enactment of this Act);

(3) appeals of decisions made by the Federal Crop Insurance Corporation; and

(4) appeals of decisions made by the Soil Conservation Service.

**SEC. 804. NOTICE AND OPPORTUNITY FOR HEARING.**  
 Not later than 10 working days after an adverse decision is made that affects the participant, the Secretary shall provide the participant with the written notice of such adverse decision and the rights available to the participant under this title or other law for the review of such adverse decision.

**SEC. 805. INFORMAL HEARINGS.**

If an officer, employee, or committee of an agency makes an adverse decision, the agency shall hold, at the request of the participant, an informal hearing on the decision. With respect to programs carried out through the Agricultural Service Agency, the Secretary shall maintain the informal appeals process applicable to such programs, as in effect on the date of the enactment of the title. If a mediation program is available under title V of the Agricultural Credit Act of 1987 (7 U.S.C. 5101 et seq.) as a part of the informal hearing process, the participant shall be offered the right to choose such mediation.

**SEC. 806. RIGHT OF PARTICIPANTS TO DIVISION HEARING.**

(a) **APPEAL TO DIVISION FOR HEARING.**—Subject to subsection (b), a participant shall have the right to appeal an adverse decision to the Division for an evidentiary hearing by a hearing officer consistent with section 807.

(b) **TIME FOR APPEAL.**—To be entitled to a hearing under section 807, a participant shall request the hearing not later than 30 days after the date on which the participant first received notice of the adverse decision.

**SEC. 807. DIVISION HEARINGS.**

(a) **GENERAL POWERS OF DIRECTOR AND HEARING OFFICERS.**—

(1) **ACCESS TO CASE RECORD.**—The Director and hearing officer shall have access to the case record of any adverse decision appealed to the Division for a hearing.

(2) **ADMINISTRATIVE PROCEDURES.**—The Director and hearing officer shall have the authority to require the attendance of witnesses, and the production of evidence, by subpoena and to administer oaths and affirmations. Except to the extent required for the disposition of ex parte matters as authorized by law—

(A) an interested person outside the Division shall not make or knowingly cause to be made to the Director or a hearing officer who is or may reasonably be expected to be involved in the evidentiary hearing or review of an adverse decision, an ex parte communication (as defined in section 551(14) of title 5, United States Code) relevant to the merits of the proceeding;

(B) the Director and such hearing officer shall not make or knowingly cause to be made to any interested person outside the Division an ex parte communication relevant to the merits of the proceeding.

(b) **TIME FOR HEARING.**—Upon a timely request for a hearing under section 806(b), an appellant shall have the right to have a hearing by the Division on the adverse decision within 45 days after the date of the receipt of the request for the hearing.

(c) **LOCATION AND ELEMENTS OF HEARING.**—

(1) **LOCATION.**—A hearing on an adverse decision shall be held in the State of residence of the appellant or at a location that is otherwise convenient to the appellant and the Division.

(2) **EVIDENTIARY HEARING.**—The evidentiary hearing before a hearing officer shall be in person, unless the appellant agrees to a hearing by telephone or by a review of the case record. The hearing officer shall not be bound by previous findings of fact by the agency in making a determination.

(3) **INFORMATION AT HEARING.**—The hearing officer shall consider information presented at the hearing without regard to whether the evidence was known to the agency officer, employee, or committee making the adverse decision at the time the adverse decision was made. The hearing officer shall leave the record open after the hearing for a reasonable period of time to allow the submission of information by the appellant or the agency after the hearing to the extent necessary to respond to new facts, information, arguments, or evidence presented or raised by the agency or appellant.

(4) **BURDEN OF PROOF.**—The appellant shall bear the burden of proving that the adverse decision of the agency was erroneous.

(d) **DETERMINATION NOTICE.**—The hearing officer shall issue a notice of the determination on the appeal not later than 30 days after a hearing or after receipt of the request of the appellant to waive a hearing, except that the Director may establish an earlier or later deadline. If the determination is not appealed to the Director for review under section 808, the notice provided by the hearing officer shall be considered to be a notice of final determination.

(e) **EFFECTIVE DATE.**—The final determination shall be effective as of the date of filing of an application, the date of the transaction or event in question, or the date of the original adverse decision, whichever is applicable.

**SEC. 808. DIRECTOR REVIEW OF DETERMINATIONS OF HEARING OFFICERS.**

(a) **REQUESTS FOR DIRECTOR REVIEW.**—

(1) **TIME FOR REQUEST BY APPELLANT.**—Not later than 30 days after the date on which an appellant receives the determination of a hearing officer under section 807, the appellant shall submit a written request to the Director for review of the determination in order to be entitled to a review by the Director of the determination.

(2) **TIME FOR REQUEST BY AGENCY HEAD.**—Not later than 15 business days after the date on which an agency receives the determination of a hearing officer under section 807, the head of the agency may make a written request that the Director review the determination.

(b) **DETERMINATION OF DIRECTOR.**—The Director shall conduct a review of the determination of the hearing officer using the case record, the record from the evidentiary hearing under section 807, the request for review, and such other arguments or information as may be accepted by the Director. Based on such review, the Director shall issue a final determination notice that upholds, reverses, or modifies the determination of the hearing officer. However, if the Director determines that the hearing record is inadequate, the Director may remand all or a portion of the determination for further proceedings to complete the hearing record or, at the option of the Director, to hold a new hearing. The Director shall complete the review and either issue a final determination or remand the determination not later than—

(1) 10 business days after receipt of the request for review, in the case of a request by the head of an agency for review; or

(2) 30 business days after receipt of the request for review, in the case of a request by an appellant for review.

(c) **EQUITABLE RELIEF.**—Subject to regulations issued by the Secretary, the Director shall have

the authority to grant equitable relief under this section in the same manner and to the same extent as such authority is provided to the Secretary under section 326 of the Food and Agriculture Act of 1962 (7 U.S.C. 1339a) and other laws. Notwithstanding the administrative finality of a final determination of an appeal by the Division, the Secretary shall have the authority to grant equitable or other types of relief to the appellant after a final determination is issued by the Division.

(d) **EFFECTIVE DATE.**—A final determination issued by the Director shall be effective as of the date of filing of an application, the date of the transaction or event in question, or the date of the original adverse decision, whichever is applicable.

#### SEC. 809. JUDICIAL REVIEW.

A final determination of the Division shall be reviewable and enforceable by any United States district court of competent jurisdiction in accordance with chapter 7 of title 5, United States Code.

#### SEC. 810. IMPLEMENTATION OF FINAL DETERMINATIONS OF DIVISION.

On the return of a case to an agency pursuant to the final determination of the Division, the head of the agency shall implement the final determination not later than 30 days after the effective date of the notice of the final determination.

#### SEC. 811. CONFORMING AMENDMENTS RELATING TO NATIONAL APPEALS DIVISION.

##### (a) DECISIONS OF STATE, COUNTY, AND AREA COMMITTEES.—

(1) **APPLICATION OF SUBSECTION.**—This subsection shall apply only with respect to functions of the Agricultural Service Agency or the Commodity Credit Corporation that are under the jurisdiction of a State, county, or area committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) or an employee of such a committee.

(2) **FINALITY.**—Each decision of a State, county, or area committee (or an employee of such a committee) covered by paragraph (1) that is made in good faith in the absence of misrepresentation, false statement, fraud, or willful misconduct shall be final not later than 90 days after the date of filing of the application for benefits, unless the decision is—

(A) appealed under this title; or

(B) modified by the Administrator of the Agricultural Service Agency or the Executive Vice President of the Commodity Credit Corporation.

(3) **RECOVERY OF AMOUNTS.**—If the decision of the State, county, or area committee has become final under paragraph (2), no action may be taken by the Agricultural Service Agency, the Commodity Credit Corporation, or a State, county, or area committee to recover amounts found to have been disbursed as a result of a decision in error unless the participant had reason to believe that the decision was erroneous.

(b) **AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE.**—Section 426 of the Agricultural Act of 1949 (7 U.S.C. 1433e) is repealed.

(c) **FARMERS HOME ADMINISTRATION.**—Section 333B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983b) is repealed.

(d) **FEDERAL CROP INSURANCE CORPORATION.**—The last sentence of section 508(f) of the Federal Crop Insurance Act (7 U.S.C. 1508(f)) is amended by inserting before the period at the end the following: "or within 1 year after the claimant receives a final determination notice from an administrative appeal made in accordance with title VIII of the Department of Agriculture Reorganization Act of 1994, whichever is later".

#### SEC. 812. EXPANSION OF ISSUES COVERED BY STATE MEDIATION PROGRAMS.

(a) **EXPANSION OF MEDIATION PROGRAMS.**—Section 501 of the Agricultural Credit Act of 1987 (7 U.S.C. 5101) is amended—

(1) in subsection (a), by striking "an agricultural loan mediation program" and inserting "a mediation program";

(2) in subsection (b), by striking "agricultural loan"; and

(3) by striking subsection (c) and inserting the following new subsection:

"(c) **REQUIREMENTS OF STATE MEDIATION PROGRAMS.**—

"(1) **ISSUES COVERED.**—To be certified as a qualifying State, the mediation program of the State must provide mediation services for the persons described in paragraph (2) who are involved in agricultural loans or agricultural loans and one or more of the following issues under the jurisdiction of the Department of Agriculture:

"(A) Wetlands determinations.

"(B) Compliance with farm programs, including conservation programs.

"(C) Agricultural credit.

"(D) Rural water loan programs.

"(E) Grazing on National Forest System lands.

"(F) Pesticides.

"(G) Such other issues as the Secretary considers appropriate.

"(2) **PERSONS ELIGIBLE FOR MEDIATION.**—The persons referred to in paragraph (1) are producers, their creditors (if applicable), and other persons directly affected by actions of the Department of Agriculture.

"(3) **CERTIFICATION CONDITIONS.**—The Secretary shall certify a State as a qualifying State with respect to the issues proposed to be covered by the mediation program of the State if the mediation program—

"(A) provides for mediation services that, if decisions are reached, result in mediated, mutually agreeable decisions between the parties to the mediation;

"(B) is authorized or administered by an agency of the State government or by the Governor of the State;

"(C) provides for the training of mediators;

"(D) provides that the mediation sessions shall be confidential;

"(E) ensures, in the case of agricultural loans, that all lenders and borrowers of agricultural loans receive adequate notification of the mediation program; and

"(F) ensures, in the case of other issues covered by the mediation program, that persons directly affected by actions of the Department of Agriculture receive adequate notification of the mediation program."

(b) **PARTICIPATION OF DEPARTMENT.**—Section 503 of such Act (7 U.S.C. 5103) is amended—

(1) by striking "agricultural loan" each place it appears;

(2) in the matter preceding subparagraph (A) of subsection (a)(1)—

(A) by inserting "or agency" after "program"; and

(B) by striking "that makes, guarantees, or insures agricultural loans";

(3) in subsection (a)(1)(A)—

(A) by inserting "or agency" after "such program"; and

(B) by inserting "certified under section 501" after "mediation program";

(4) in subsection (a)(1)(B)—

(A) by striking "effective beginning on the date of the enactment of this Act,"; and

(B) by inserting "certified under section 501" after "mediation programs"; and

(5) in subsection (a)(1)(C)—

(A) in clause (i), by striking "described in" and inserting "certified under"; and

(B) in clause (ii), by inserting "if applicable," before "present".

(c) **REGULATIONS.**—Section 504 of such Act (7 U.S.C. 5104) is amended—

(1) by striking "Within 150 days after the date of the enactment of this Act, the" and inserting "The"; and

(2) by adding at the end the following new sentence: "The regulations prescribed by the Secretary shall require qualifying States to adequately train mediators to address all of the issues covered by the mediation program of the State."

(d) **REPORT.**—Section 505 of such Act (7 U.S.C. 5105) is amended by striking "1990" and inserting "1998".

(e) **AUTHORIZATION OF APPROPRIATIONS.**—Section 506 of such Act (7 U.S.C. 5106) is amended by striking "1995" and inserting "2000".

(f) **CONFORMING AMENDMENTS.**—

(1) **REFERENCES TO AGRICULTURAL LOANS.**—Subtitle A of title V of such Act is amended—

(A) in sections 502 and 505(1) (7 U.S.C. 5102, 5105(1)), by striking "agricultural loan" each place it appears; and

(B) in section 505(3) (7 U.S.C. 5105(3)), by striking "an agricultural loan mediation" and inserting "a mediation".

(2) **WAIVER OF FARM CREDIT SYSTEM MEDIATION RIGHTS BY BORROWERS.**—Section 4.14E of the Farm Credit Act of 1971 (12 U.S.C. 2202e) is amended by striking "agricultural loan".

(3) **WAIVER OF FMHA MEDIATION RIGHTS BY BORROWERS.**—Section 358 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006) is amended by striking "agricultural loan".

#### TITLE IX—MISCELLANEOUS PROVISIONS

##### SEC. 901. SUCCESSORSHIP PROVISIONS RELATING TO BARGAINING UNITS AND EXCLUSIVE REPRESENTATIVES.

(a) **VOLUNTARY AGREEMENT.**—

(1) **IN GENERAL.**—If the exercise of the Secretary's authority under this Act results in changes to an existing bargaining unit that has been certified under chapter 71 of title 5, United States Code, the affected parties shall attempt to reach a voluntary agreement on a new bargaining unit and an exclusive representative for such unit.

(2) **CRITERIA.**—In carrying out the requirements of this subsection, the affected parties shall use criteria set forth in—

(A) sections 7103(a)(4), 7111(e), 7111(f)(1), and 7120 of title 5, United States Code, relating to determining an exclusive representative; and

(B) section 7112 of title 5, United States Code (disregarding subsections (b)(5) and (d) thereof), relating to determining appropriate units.

(b) **EFFECT OF AN AGREEMENT.**—

(1) **IN GENERAL.**—If the affected parties reach agreement on the appropriate unit and the exclusive representative for such unit under subsection (a), the Federal Labor Relations Authority shall certify the terms of such agreement, subject to paragraph (2)(A). Nothing in this subsection shall be considered to require the holding of any hearing or election as a condition for certification.

(2) **RESTRICTIONS.**—

(A) **CONDITIONS REQUIRING NONCERTIFICATION.**—The Federal Labor Relations Authority may not certify the terms of an agreement under paragraph (1) if—

(i) it determines that any of the criteria referred to in subsection (a)(2) (disregarding section 7112(a) of title 5, United States Code) have not been met; or

(ii) after the Secretary's exercise of authority and before certification under this section, a valid election under section 7111(b) of title 5, United States Code, is held covering any employees who would be included in the unit proposed for certification.

(B) **TEMPORARY WAIVER OF PROVISION THAT WOULD BAR AN ELECTION AFTER A COLLECTIVE**

**BARGAINING AGREEMENT IS REACHED.**—Nothing in section 7111(f)(3) of title 5, United States Code, shall prevent the holding of an election under section 7111(b) of such title that covers employees within a unit certified under paragraph (1), or giving effect to the results of such an election (including a decision not to be represented by any labor organization), if the election is held before the end of the 12-month period beginning on the date such unit is so certified.

(C) **CLARIFICATION.**—The certification of a unit under paragraph (1) shall not, for purposes of the last sentence of section 7111(b) of title 5, United States Code, or section 7111(f)(4) of such title, be treated as if it had occurred pursuant to an election.

(3) **DELEGATION.**—

(A) **IN GENERAL.**—The Federal Labor Relations Authority may delegate to any regional director (as referred to in section 7105(e) of title 5, United States Code) its authority under the preceding provisions of this subsection.

(B) **REVIEW.**—Any action taken by a regional director under subparagraph (A) shall be subject to review under the provisions of section 7105(f) of title 5, United States Code, in the same manner as if such action had been taken under section 7105(e) of such title, except that in the case of a decision not to certify, such review shall be required if application therefor is filed by an affected party within the time specified in such provisions.

(c) **DEFINITION.**—For purposes of this section, the term "affected party" means—

(1) with respect to an exercise of authority by the Secretary under this Act, any labor organization affected thereby; and

(2) the Department of Agriculture.

**SEC. 902. OFFICE OF ENVIRONMENTAL RISK ASSESSMENT.**

(a) **OFFICE OF ENVIRONMENTAL RISK ASSESSMENT.**—The Secretary shall establish in the Department an Office of Environmental Risk Assessment (in this section referred to as the "Office"), which shall be independent of other offices and agencies of the Department, but shall have the authority to advise such offices and agencies regarding the environmental risks addressed by Department regulations and the implementation and compliance costs associated with such regulations. The Office shall be under the direction of a Director appointed by the Secretary.

(b) **STRATEGY TO ANALYZE RISKS AND BENEFITS.**—The Director of the Office shall develop a strategy for performing, to the greatest extent practicable and consistent with the provisions of this section and other provisions of the law applicable to the Department, risk/benefit analyses in connection with the regulations described in subsection (c) that are performed consistently and employ state-of-the-art scientific techniques that are practicable with the resources available. The implementation of the strategy shall be subject to the approval of the Secretary.

(c) **REVIEW AND CERTIFICATION OF DEPARTMENT REGULATIONS.**—In connection with each proposed major regulation relating to public health, public safety, or the environment that is issued by the Department after the date on which the Secretary approves of the risk/benefit analysis strategy under subsection (b), the Director of the Office shall publish in the Federal Register—

(1) an estimate, with as much specificity as practicable, of—

(A) the risk to the health and safety of individuals that is addressed by the regulation, including the effect of the risk on human health or the environment;

(B) the costs associated with the implementation of, and compliance with, the regulation; and

(C) a comparative analysis of that risk relative to other risks to which the public is exposed; and

(2) subject to subsection (d), a certification by the Director that—

(A) the estimate under paragraph (1)(B) and the analysis under paragraph (1)(C) are based on a scientific evaluation of the risk referred to in paragraph (1)(A) and are supported by the best available scientific data;

(B) the regulation will substantially advance the purpose of protecting the public health and safety or the environment against the risk referred to in paragraph (1)(A); and

(C) the regulation will produce benefits to public health and safety or the environment that will justify the costs incurred by local, State, and Federal Government and other public and private entities as a result of the implementation of, and compliance with, the regulation, as estimated in paragraph (1)(B).

(d) **REPORT TO CONGRESS OF LACK OF CERTIFICATION.**—If the Director of the Office cannot make the certification required under subsection (c)(2) for a regulation, the Director shall submit to Congress a report containing a statement of the reasons why the certification cannot be made. The statement shall be included in the final regulation.

(e) **EFFECT ON OTHER LAWS; JUDICIAL REVIEW.**—This section, and any certification made under subsection (c), shall not be construed to amend, modify, or alter any law and shall not be subject to judicial review. This section shall not be construed to grant a cause of action to any person.

**SEC. 903. FAIR AND EQUITABLE TREATMENT OF SOCIALLY DISADVANTAGED PRODUCERS.**

(a) **FAIR CROP ACREAGE BASES AND FARM PROGRAM PAYMENT YIELDS.**—If the Secretary of Agriculture determines that crop acreage bases or farm program payment yields established for farms owned or operated by socially disadvantaged producers are not established in accordance with title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.), the Secretary shall adjust the bases and yields to conform to the requirements of such title and make available any appropriate commodity program benefits.

(b) **FAIR APPLICATION OF CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.**—If the Secretary of Agriculture determines that application of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) with respect to socially disadvantaged producers is not consistent with the requirements of such Act, the Secretary shall make such changes in the administration of such Act as the Secretary considers necessary to provide for the fair and equitable treatment of socially disadvantaged producers under such Act.

(c) **REPORT ON TREATMENT OF SOCIALLY DISADVANTAGED PRODUCERS.**—

(1) **REPORT REQUIRED.**—The Comptroller General of the United States shall prepare a report to determine—

(A) whether socially disadvantaged producers are underrepresented on State, county, or local committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) or local review committees established under section 363 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1363) because of racial, ethnic, or gender prejudice; and

(B) if such underrepresentation exists, whether it inhibits or interferes with the participation of socially disadvantaged producers in programs of the Department of Agriculture.

(2) **SUBMISSION OF REPORT.**—Not later than February 1, 1995, the Comptroller General shall submit the report required by this subsection to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(d) **DEFINITION.**—For purposes of this section, the term "socially disadvantaged producer" means a producer who is a member of a group whose members have been subjected to racial, ethnic, or gender prejudice because of their identity as members of a group without regard to their individual qualities.

**SEC. 904. REPEAL OF SUPERSEDED PROVISIONS.**

(a) **IN GENERAL.**—The following provisions of law are repealed:

(1) Section 2 of Reorganization Plan No. 2 of 1953 (5 U.S.C. App; 7 U.S.C. 2201 note).

(2) Section 2 of the Act entitled "An Act to enlarge the powers and duties of the Department of Agriculture and to create an Executive Department to be known as the Department of Agriculture," approved February 9, 1889 (7 U.S.C. 2212).

(3) The first paragraph designated "OFFICE OF THE SECRETARY" under the heading "DEPARTMENT OF AGRICULTURE" of the Act entitled "An Act making appropriations for the Department of Agriculture for the fiscal year ending June thirtieth, nineteen hundred and seven," approved June 30, 1906 (34 Stat. 670; 7 U.S.C. 2212).

(4) Section 604(a) of the Rural Development Act of 1972 (7 U.S.C. 2212a).

(5) Section 2 of Public Law 94-561 (7 U.S.C. 2212b).

(6) Section 8(a) of Public Law 97-325 (7 U.S.C. 2212c).

(7) Section 1413(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3128(d)).

(8) Section 306(a)(15)(C) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(15)(C)).

(9) Section 2322(d)(2) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1926-1(d)(2)).

(10) Section 364 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006f).

(b) **TERMINATION OF AUTHORITY FOR ASSISTANT SECRETARIES.**—Section 5315 of title 5, United States Code, is amended by striking "Assistant Secretaries of Agriculture (7).".

(c) **TERMINATION OF OTHER EXECUTIVE SCHEDULE POSITIONS.**—Section 5316 of title 5, United States Code, is amended—

(1) by striking "Administrator, Agricultural Marketing Service, Department of Agriculture.";

(2) by striking "Administrator, Agricultural Research Service, Department of Agriculture.";

(3) by striking "Administrator, Agricultural Stabilization and Conservation Service, Department of Agriculture.";

(4) by striking "Administrator, Farmers Home Administration.";

(5) by striking "Administrator, Foreign Agricultural Service, Department of Agriculture.";

(6) by striking "Administrator, Rural Electrification Administration, Department of Agriculture.";

(7) by striking "Administrator, Soil Conservation Service, Department of Agriculture.";

(8) by striking "Chief Forester of the Forest Service, Department of Agriculture.";

(9) by striking "Director of Science and Education, Department of Agriculture.";

(10) by striking "Administrator, Animal and Plant Health Inspection Service, Department of Agriculture."; and

(11) by striking "Administrator, Federal Grain Inspection Service, Department of Agriculture.".

**SEC. 905. CONFORMING AMENDMENTS.**

(a) **UNITED STATES GRAIN STANDARDS ACT.**—The United States Grain Standards Act (7 U.S.C. 71 et seq.) is amended—

(1) in section 3 (7 U.S.C. 75)—

(A) by inserting "and" at the end of subsection (y);

(B) by striking subsections (z) and (aa); and

(C) by redesignating subsection (bb) as subsection (z);

(2) by striking section 3A (7 U.S.C. 75a);  
 (3) in section 5(b) (7 U.S.C. 77(b)), by striking "Service employees" and inserting "employees of the Secretary";

(4) in sections 7(j)(2) and 7A(l)(2) (7 U.S.C. 79(j)(2) and 79a(l)(2)), by striking "supervision by Service personnel of its field office personnel" both places it appears and inserting "supervision by the Secretary of the Secretary's field office personnel";

(5) in section 12(c) (7 U.S.C. 87a(c)), by striking "or Administrator";

(6) in section 12(d) (7 U.S.C. 87a(d)), by striking "or the Administrator";

(7) except as otherwise provided in this subsection, by striking "Administrator" each place it appears and inserting "Secretary"; and

(8) except as otherwise provided in this subsection, by striking "Service" each place it appears and inserting "Secretary".

(b) PACKERS AND STOCKYARDS ACT, 1921.—Section 407 of the Packers and Stockyards Act, 1921 (7 U.S.C. 228), is amended—

(1) by striking subsection (b);

(2) by redesignating subsections (c), (d), (e), and (f), as subsections (b), (c), (d), and (e), respectively; and

(3) in subsection (e) (as so redesignated), by striking "subsection (e)" and inserting "subsection (d)".

#### SEC. 906. PROPOSED CONFORMING AMENDMENTS.

Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to Congress recommended legislation containing additional technical and conforming amendments to Federal laws that are required as a result of the enactment of this Act.

#### SEC. 907. PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased using funds made available pursuant to this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available pursuant to this Act, the Secretary, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

#### SEC. 908. CONDITIONS ON IMPLEMENTATION OF ALTERATION IN LEVEL OF SELENIUM ALLOWED IN ANIMAL DIETS.

(a) CONDITIONS.—The Food and Drug Administration shall not implement or enforce the final rule described in subsection (b) to alter the level of selenium allowed to be used as a supplement in animal diets unless the Commissioner of the Food and Drug Administration makes a determination that—

(1) selenium additives are not essential, at levels authorized in the absence of such final rule, to maintain animal nutrition and protect animal health;

(2) selenium at such levels is not safe to the animals consuming the additive;

(3) selenium at such levels is not safe to individuals consuming edible portions of animals that receive the additive;

(4) selenium at such levels does not achieve its intended effect of promoting normal growth and reproduction of livestock and poultry; and

(5) the manufacture and use of selenium at such levels cannot reasonably be controlled by adherence to current good manufacturing practice requirements.

(b) FINAL RULE DESCRIBED.—The final rule referred to in subsection (a) is the final rule issued by the Food and Drug Administration and published in the Federal Register on September 13, 1993 (58 Fed. Reg. 47962), in which the Administration stayed 1987 amendments to the sele-

nium food additive regulations, and any modification of such rule issued after the date of the enactment of this Act.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 3171) was laid on the table.

#### GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bills just passed.

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

There was no objection.

□ 1620

#### REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4821

Mr. LUCAS. Mr. Speaker, I ask unanimous consent to have my name removed as a sponsor from H.R. 4821.

The SPEAKER pro tempore (Mr. McDERMOTT). Is there objection to the request of the gentleman from Oklahoma.

There was no objection.

#### LEGISLATIVE PROGRAM

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

Mr. GINGRICH. Mr. Speaker, I ask for this time to allow my colleague, the gentleman from California, and the distinguished majority leader to discuss the prospect of taking up a debate on Haiti and the way in which we will proceed. If I might, I will yield first to the gentleman from California to express his concerns.

Mr. COX. I thank the gentleman for yielding, and I thank the majority leader for joining us on the floor for this colloquy.

Mr. Speaker, as both the Republican whip and the Democratic majority leader know, I filed a privileged resolution even before the Haiti occupation for the purpose of forcing what ought to have been scheduled freely, an open debate on the floor of the Congress and decisionmaking by way of vote on the subject of whether an occupation is a good or bad idea, the wisdom of that policy; second, on the scope of the operation and the objectives; and, third, on the cost and what sources we might be willing to make available to pay for such an operation.

I have rolled that resolution so that in the interim the United States has actually occupied Haiti. I have rolled it again because there have been good-faith efforts to see to it that we get

such a debate, and I am willing to do so once again, because I know that the majority leader is working on this.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I am happy to yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding.

As the gentleman probably knows, the Committee on Foreign Affairs today did vote out a resolution that deals with a variety of questions with regard to Haiti, and I believe under that resolution which we will bring to the floor next week we can, in cooperation with Members on both sides of the aisle, structure a debate on all of the three questions the gentleman raised. We also would obviously intend to have alternatives available to the resolution from the Committee on Foreign Affairs, undoubtedly one for the minority, and there may be other Members on both sides of the aisle who would like an additional alternative, and there may be a vote allowed on that as well.

My own feeling is that the questions that you raise and have been asking to raise through the offering of a privileged resolution can be structured into this debate, and it is appropriate that it happen in this debate, and we will try to structure a sufficiently long debate so that the Members of the House on both sides of the aisle can be heard.

Mr. COX. I appreciate very much what the majority leader has described, and I have questions about it.

If I may proceed, do you know what you have in mind by means of complete time for debate? How much time would be devoted to this? I allude to the Persian Gulf debate, for example, when we expended in excess of a day because of the urgency of this matter, because our troops could become involved in hostilities without notice as a defensive matter, because October 15 is nearly upon us. If the agreement is not upheld, we might be required to mount offensive operations. Time really is of the essence. This will be our only opportunity to have a full and free debate. How much time would the majority leader have in mind?

Mr. GEPHARDT. If the gentleman will yield further, we will obviously consult with Members including yourself on both sides of the aisle about how the debate should be structured. I cannot make a commitment now as to the exact length of the debate, but I do believe, and I think the chairman of the committee and others believe, that this should be a sufficiently long debate so that people can get the ability to express themselves and to have a give and take so that the issues that are involved here can be well presented both to the Congress and to the American people.

I agree with the gentleman that the debate on the Persian Gulf was a constructive moment, and I believe a high

moment for this institution, and we want to use that kind of an effort to tease out all of the issues involved in the Haiti questions.

Mr. COX. Is the majority leader proposing this debate take place on Monday?

Mr. GEPHARDT. That decision has not been made. I would doubt that Monday would be the day for this. It probably would be Tuesday or Wednesday.

Mr. COX. Tuesday or Wednesday. And would the procedure on the floor permit consideration of the major points that I have described, the wisdom or not of an occupation, first, the possibility of legislating objective criteria for that mission, if it were decided that occupation were a wise idea; second, and; third, the sources of funding for any such efforts?

Mr. GEPHARDT. I believe the resolution that has come from the Committee on Foreign Affairs largely deals with those issues. But obviously if the minority is afforded an alternative, and I believe it will be, if it is your feeling or the feeling of a group on your side that these issues have not been sufficiently addressed in the resolution, they will have the opportunity to present an alternative.

Mr. COX. My only concern is that because the division on all of these questions is not a partisan one, because most of the positions that are possible on every one of the items that I mentioned are represented on both the Democratic and the Republican sides, that if we structure debate on the floor around a single measure that would, for example, limit our participation in Haiti to 60 days or a Republican alternative that had a different number in it, we would be having a full debate on only a footnote of the entire issue that Congress really ought to engage in. This issue has been a significant one in American foreign policy for many months now.

The United Nations voted to authorize, and the Congress did not. And while I would have preferred that the President actively seek our participation by way of debate and a vote, it is nonetheless incumbent upon this institution to take that up itself, not only under article I, section 8, and the war powers that we share with the President, but also our broader powers under article I to raise and support armies and appropriate funds and so on.

I think all of those questions are properly debated here on the floor. I would hate to see us so constricted that we had a resolution with a time period on one side and a different time period on the other and that was it.

□ 1630

Mr. GEPHARDT. If the gentleman will yield, I would think we would want to have enough general debate time so that the debate on the larger questions could be well structured.

Mr. COX. With that understanding, would it be fair to say that no later than Wednesday this would occur? We are running out of time, of course, in the whole Congress, so we are running up against the wall next week in any case.

Mr. GEPHARDT. If the gentleman will yield, and I am not trying to indicate we are not going to do this issue, we are going to do this issue, I cannot commit to a specific time because we have an active schedule. We are trying to leave by October 7, and there is every intention here to do that. We will have this debate next week. It will be on probably Tuesday or Wednesday, it could be Thursday, I am not sure. I cannot make a commitment at this point because we have so many other matters we have to get done. We are not going to put that in a time period when Members cannot participate, we are not going to avoid it, it will happen.

Mr. COX. I am advised that the length of the debate on the Persian Gulf was about 26 hours. I do not know that 26 hours is necessarily the right time for the debate on the Haitian occupation, but it would seem to me that somewhere in the neighborhood of a day of debate rather than just a few hours of debate would be appropriate.

Mr. GINGRICH. If I might make an observation for a second, it does seem to me—and I hope the majority leader can agree with this—what we might do is indicate to Members on both sides of the aisle that the debate is upcoming and that if we have some expression of interest, say by Monday, that we would have a notion of whether, for example, we might want to start the debate—and I am not sticking to Wednesday—but if we are going to have the votes on Wednesday, we might well to start the debate on Tuesday at the end of the legislative session. Literally, if there are that many Members who want to engage in a serious debate, to allow it to begin in a fairly open manner leading up to a more structured environment on the day of the actual votes.

I remember I stayed here, I had the assignment, until 5 o'clock in the morning or something, on the first when we literally ran out of time on the Desert Storm debate. I do not know if that, for my friend from California, would be a good starting point, but if we could say to all of our colleagues this debate is coming up, it is very serious, it is potentially a matter of life and death and certainly a matter of American foreign policy, if you think you are going to have an interest in substantial time on this, let us know so that we can on a bipartisan basis insure that every Member have the time by creating that kind of a scheduling opportunity.

Would that be a starting point to what the gentleman is describing?

Mr. COX. Yes. I would point out that the privileged resolution which I filed

both before the occupation and subsequently has a very short resolution, and that is that the Speaker should immediately schedule a debate and vote upon the scope of an authorization for the United States military occupation of Haiti. If that commitment were made here on the floor, not necessarily to have the debate immediately, we might not be having it until Tuesday or Wednesday or even Thursday of next week, but to schedule it immediately so that would provide Members with the advance notice they would need. And it would set up a procedure so that we could all be confident in knowing that it is going to take place.

Mr. GEPHARDT. If the gentleman will yield, we will be releasing a schedule for tomorrow for next week, and undoubtedly this will be scheduled on that schedule so that Members will have notice, and we will make a special effort to let Members have notice and we will make a special effort to let Members know this is coming. We may even try to figure out how many Members would like to talk so that we can schedule adequate time.

Mr. COX. Finally, I would raise once again something that the leader and I discussed in private conversation on the floor, and that is the possibility that rule sufficiently open to encompass the things we have discussed might be structured so that the majority leader and the minority leader would control what amendments to whatever basic vehicle made it to the floor would be in order. I think certainly every Member of this Congress would trust the judgment of the majority leader and BOB MICHEL, the Republican leader, in matters of war and peace that would permit us the widest scope but also insure that nothing brought up with parochial interests or some other purpose would interfere with the discussion on this floor of the wisdom of our Haiti policy. Would that suggestion—

Mr. GEPHARDT. I appreciate that suggestion. We would obviously consult with the minority in putting this procedure together.

Mr. COX. Well, with the understanding that the debate will take place next week, whether it amounts to the 26 hours we had on the Persian Gulf or not, we would be talking about perhaps a full day of debate, with the understanding that the scope of that debate would not be constricted to a resolution calling for a pullout by a date certain or allowing merely a time period, but also would extend to the financing of the venture and the wisdom of the occupation and objective criteria for success or failure, I have no reason to press my privileged resolution.

Are those things a fair statement of what we have discussed in this colloquy?

Mr. GEPHARDT. I thank the gentleman.

Mr. COX. With that understanding, I yield back.

#### SPECIAL ORDERS

The SPEAKER pro tempore (Mr. SCOTT). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, and under a previous order of the House, the following Members are recognized for 5 minutes each.

#### HAITI: THE CURRENT SITUATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. GOSS] is recognized for 5 minutes.

Mr. GOSS. Mr. Speaker, we have just had a very instructive colloquy between the distinguished gentleman from California, Mr. COX and our distinguished majority leader, and the distinguished whip, Mr. GINGRICH on where we are going on the subject of the debate of Haiti. Is it not extraordinary that we could be standing here on the 9th day of the occupation of a friendly neighboring country finally saying that we are going to schedule a debate sometime next week that involves a country that has something like 15,000-plus of our Armed Forces at least partially in harm's way, certainly involved in a dangerous and volatile situation down there? A day late and a dollar short, does not quite say it when we talk about, in my view, the negligent way that the leadership of the Democrat Party has handled the debate and discussion of this subject in the House of Representatives.

Certainly, the people of this country are very, very upset that Congress has not chimed in. The polls show that because most of the people across our country do not believe that we should have our troops in harm's way in Haiti. There is no national security reason for them to be there. There are very few national interests that can be resolved by putting our troops there. And there are certainly extra dangers and extra hazards involved for our troops who are there.

So it would seem that we have been asking the wrong question for quite a while here about should we draw a date certain to get our troops out? I think that is the wrong question. I think the question to ask is when should we start pulling our troops out? And the answer is now, today, immediately. I do not know how long it will take to get 15,000-plus troops out of Haiti, but it will surely take a while to do it in an orderly and safe way. I believe that process should start now.

So, the question we should ask is when do we begin removing our troops from Haiti? I hope that the answer to that question, and I urge that the answer to that question, be now immediately. It turns out, as we read the newspaper accounts from down there,

we are being asked to police virtually everything. It is not just the parliament building we are protecting today. It is the aid warehouses, we are going to have to protect President Aristide when he returns. Presumably, we are going to have to protect some of the members of the military who are going to be subject to an amnesty accord and protection when they are there because there are plenty of people who are mad at them and they are no longer in the army, no longer have the protection of their own army. Who is going to protect them? I presume that is part of President Carter's agreement with General Cedras and others in his junta.

□ 1640

That sort of leaves us in the position, America, where the taxpayer is paying for not only the bodyguards, but the palace guard of President Aristide who many will go back and read some of his comments and find that he has not been particularly a great fan of the United States of America or certainly of the form of government and democracy that we have here. That will probably agitate some Americans to learn that if they do not know it already.

But then there is the other side of it. Are we also going to be providing bodyguards for General Cedras who has been described as one of the most brutal thugs in the Western Hemisphere? Are we going to give them each a Mercedes Benz that is armor plated so they can go about their business in downtown Port-au-Prince? It seems to me like we are really carving another giant taxpayers expense which would be laughable were it not so expensive and so dangerous.

I do not think the administration has thought this thing out very well.

Talking about dollars, we had the privilege today in the Committee on Rules of talking about the supplemental we will be dealing with under defense appropriations tomorrow. It will be \$300 billion. That does not take care of the costs after the intervention slash invasion that came about a week ago Sunday. That is the costs up to that point. The estimate for the costs after that point, to follow the Pentagon plan and the administration plan that we have heard enunciated, gets up into the \$2 billion-plus area. That is a lot of money for Haiti, and I would suggest, if we took all of these costs, and put them together, and divided it by the number of people in Haiti, and sent them a check or handed them dollars in their proportional share amount, we would have done a whole lot more for that democracy than the way it has been handled by the Clinton administration so far.

The bottom line is we are going to become ever further sucked into this quagmire down there. We are told that we cannot distribute our aid supplies

from the warehouses that are there right now. They are being trashed by the crowds who do not want to get the supplies out in an orderly way. Presumably some of them want to get them out for humanitarian purposes and for their own family and friends. Others inevitably probably exercise a little private enterprise, want to take some of those supplies and sell them on the black market. So, we have got to protect everything that is going on down there.

It has almost gotten to the point, Mr. Speaker, that our military is going to have to protect not only their lives and the lives of each other, their buddies, their colleagues, but the equipment that we have there will start to mysteriously disappear into the night, the guns, the things we are trying to buy back. That program has not had great success so far. I understand we bought something like 18 guns back, but these are the kinds of things that have not been foreseen that a thoughtful foreign policy would have understood, and provided for, and, frankly, avoided.

I see that my time has expired on me, but the subject is not expired, and I know others will take it up.

#### THE NATIONAL INFRASTRUCTURE DEVELOPMENT ACT

The SPEAKER pro tempore (Mr. SCOTT). Under a previous order of the House, the gentlewoman from Connecticut [Ms. DELAURO] is recognized for 5 minutes.

Ms. DELAURO. Mr. Speaker, I rise this evening to address the state of our economy and to outline innovative new legislation to build our infrastructure and create jobs. Over the past 2 years we have witnessed an upturn in our national economy. Under the strong leadership of the Clinton administration, 3½ million new private sector jobs were created in the past 18 months.

Despite this upturn in our national economic fortune, there are regions of the Nation where continued efforts to create new jobs remain imperative. In my home State of Connecticut, despite a declining unemployment rate in the past year, the threat of future layoffs looms large as defense downsizing continues. People remain concerned about job security and the ripple effect it can have on a community. The need to train workers and create new jobs is as great today as it has ever been.

At the same time, the infrastructure American business needs to maintain a competitive edge in the world economy is aging. Our Nation's roads, bridges, sewers, and airports demand almost \$70 billion for repair or replacement each year. And according to recent estimates from the Department of Transportation, the combination of State and Federal funds available for infrastructure leave an almost \$30 billion shortfall each year. This shortfall will

become a growing burden on American industry, as it finds its means of transporting goods limited and its domestic and international trade increasingly costly.

For years it has been known that investments in our infrastructure have the added benefit of creating good jobs. Combining a strategy to address both of these pressing priorities is not novel. But today I have introduced legislation that seeks to remedy both problems through a limited public investment.

I am joined in this effort by our majority leader, the gentleman from Missouri [Mr. GEPHARDT], who has worked tirelessly in this body to create jobs for working Americans.

This legislation, the National Infrastructure Development Act, would create as many as 250,000 new jobs each year by leveraging a limited public investment in infrastructure to attract significant additional private capital funds.

The bill is designed to be particularly attractive to the pension community and other institutional investors. These investors represent \$4.5 trillion in investment potential. For infrastructure, this is a vast investment opportunity. Evidence of the attractiveness of investment in infrastructure is easy to find. Earlier this year an 80-member delegation of pension managers traveled to China to investigate infrastructure investment opportunities there. And they liked what they saw. We must make it attractive for these funds to invest in America.

The bill creates a Government-sponsored corporation, the National Infrastructure Corporation—or NIC—which would be funded by an initial \$1 billion Government investment for 3 years. Its mission would be to invest in and insure infrastructure and environmental projects that will generate revenues. Construction or repair of toll roads, airports, bridges, sewage treatment facilities, and clean water projects are potential investments.

By lending or insuring funds to municipalities or States with projects like these, the NIC would allow pension funds to strengthen their investments while helping us strengthen our economy. And over time, the NIC itself would become an attractive investment for the pension community. Private investors could eventually buy the Corporation from the Federal Government, repaying the taxpayers' original investment.

In addition, the bill would create something called the public benefit bond. The bill would allow cities and States to offer bonds to pension funds for use in infrastructure construction. Under the public benefit bond, these investments would be attractive to pension funds because it allows them to pass on tax benefits to their pensioners.

What this bill does not do is end traditional means of funding our road con-

struction. It does not replace the need for Federal or State assistance to highway and mass transit programs. Instead, it offers a new method of filling the \$30 billion annual shortfall that has been projected for these projects. The NIC will supplement, not supplant, traditional methods of financing our infrastructure development. Investment from NIC will allow States and municipal governments to use existing formula and grant funds for other projects of importance.

Who benefits from this approach? We all do. First and foremost, American workers will benefit from this new twist in an old concept of job creation. Under traditional Government transportation investment programs, every \$1 billion the Federal Government invests creates 30,000 to 50,000 new jobs. Under the National Infrastructure Development Act, every \$1 in Federal investment will result in \$10 of actual construction. So each \$1 billion in Federal investment will create 250,000 to 450,000 jobs.

American business benefits. The reliable airports, roads, and other means of transportation vital to the movement in goods in an international economy become more secure, assuring continued growth. The taxpayer benefits from better modes of transportation for fewer tax dollars. Pension investors benefit because they can look to American opportunities to invest their pension dollar instead of China.

Mr. Speaker, I introduced the National Infrastructure Development Act because as a member of the Appropriations Committee I understand all too well that the Federal dollars are increasingly limited. I understand that in order for Government to accomplish its goals we will need to find new methods of getting the job done. I believe by making it more attractive for private investors to engage in the rebuilding of America we will be forging a vital partnership—one that will help us create new jobs and good investments, and rebuild our aging infrastructure.

I believe that this bill represents ideas that will be attractive to my colleagues on both sides of the aisle and it is my hope to work with Democrats and Republicans to see this legislation actively considered in the next session of Congress.

Mr. GEPHARDT. Mr. Speaker, I am pleased to join Congresswoman DELAURO in cosponsoring the National Infrastructure Development Act of 1994.

The purpose of the National Infrastructure Development Act is to increase the public works investment so critical to sustaining our long-term economic growth. Good roads, airports, transportation networks, sewer systems, and other public works have been recognized as necessary for strong productivity growth.

Over the past 2 years, the Clinton administration and the Congress have made tough choices to reduce the Federal budget deficit. While we have made historic progress in re-

kindling sustainable economic growth, our rate of investment in public works remains well below the level believed necessary for optimal economic growth.

During the 1980's, real Federal investment in infrastructure fell 16 percent. As the Federal Government reduced its investment, greater burdens fell on the States and municipalities. And many of them—not just inner cities or small towns but suburbs as well—have been unable to meet their needs.

As investment has lagged and our public works have aged, their contribution to our economy has diminished. Traffic congestion, for example, now costs drivers in our largest cities over \$40 billion per year in lost time and wasted gasoline.

It is not just the economic effects that the American people see so plainly. In Missouri, failing septic systems have left raw sewage standing in our streets and gutters; local sewer districts are unable to afford even basic improvements. Long-promised road improvements have gone unfulfilled—leaving our county roads with accident and fatality rates substantially higher than the national average.

While we have made some improvements in recent years, numerous studies document the need for additional public investment. Bringing our bridges and highways up to current safety standards would require a doubling of the current highway program. The backlog of sewage projects totals over \$200 billion. Last year, the Bipartisan Commission to Promote Investment in America's Infrastructure reported that America's investment shortfall in its infrastructure totals between \$40 and \$80 billion per year.

The Federal Government must lead the way with new resources. Our strategy should recognize also that many States are more capable and sophisticated than they were in the past. New methods of financing may be both necessary and possible.

The National Infrastructure Development Act establishes an innovative, investment-oriented Federal infrastructure strategy to help States and municipal governments finance needed infrastructure. Specifically, it establishes a National Infrastructure Corporation to provide a broad array of financing to projects capable of providing an economic return. These would include projects like toll roads and bridges, wastewater and drinking water treatment plants, and airports.

By leveraging private and other public sector monies, the Corporation would substantially increase the amount of infrastructure created by each federal public works dollar. Experts estimate that the Corporation could leverage \$10 or more in private investment for every \$1 it receives from the Federal Government. Under this legislation, the corporation's capitalization would be \$3 billion. It is anticipated that this could support up to \$30 billion in new project work, generating between 675,000 and 900,000 new jobs.

Congresswoman DELAURO has proposed an innovative mechanism to address a difficult problem. It is my hope that we can move forward in promoting additional public works investment in the next Congress. This legislation makes a valuable contribution to understanding the issues and attaining this goal.

□ 1650

TRIBUTE TO FORMER REPRESENTATIVE EDWARD PATTEN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. HUGHES] is recognized for 5 minutes.

Mr. HUGHES. Mr. Speaker, New Jersey and our Nation suffered a tragic loss last week with the passing of our former colleague and friend, Congressman Ed Patten. Rutgers University, our State University, also lost a great and loyal friend.

I would like to take a few moments to reflect upon his life, and to pay tribute to this man who was surely one of New Jersey's finest sons. He was a big man, with a gentle smile and pleasing and outgoing personality.

Eddie Patten was also one of the most colorful, congenial and compassionate individuals to ever grace the Halls of Congress. To remember him any other way would be unfair to a man who built his reputation on the basis of his warmth, great sense of humor and genuine love of Congress and the people he served.

When I first came to the Congress in 1975, Eddie Patten was one of the senior Members of our delegation, one who I looked to for guidance and good counsel. I must confess, I at first never knew when to take him seriously.

He was always telling stories, cracking jokes, and hatching the kind of schemes which made him a legend around the Capitol, such as the time he clipped off another Member's tie with a pair of scissors so he could replace it with one manufactured in his hometown of Perth Amboy.

No matter how tense the situation might be, or how difficult the issue was that we were facing, you could always count on Eddie to come up with a well-placed joke or one-liner that would ease the pressure and help everyone get through the crisis at hand. He was quite a character.

But Eddie was also one of the most able and effective Members of our delegation. As a Member of the House Appropriations Committee, he helped lead the fight for education and job training programs. He worked tirelessly in support of programs to create jobs and put people to work.

Just as importantly, Eddie never lost sight of the people he served. Indeed, it was difficult to go anywhere in his district that people didn't know him by name and enjoy being around him. To Eddie, the people always came first.

I am very proud to have had the opportunity to serve with Eddie Patten, and to get to know him as a legislator and a friend. I wish to extend my condolences to his daughter Catherine and to the citizens of New Jersey on the loss of this wonderfully kind and productive public servant. We will miss him.

Mr. MENENDEZ. Mr. Speaker, Congressman Edward James Patten, who served in this body from 1963 until his retirement in 1980; passed away on September 17, 1994, at the age of 89.

Mr. Patten spent his entire life in public service. He graduated from Rutgers Law School; and, at age 27 became the youngest mayor in the history of Perth Amboy. He then served as the Middlesex County clerk and secretary of state for the State of New Jersey under Gov. Dick Hughes.

Following the 1960 census, New Jersey's 15th Congressional District was created. Ed Patten was selected by the county Democratic organization to run for Congress in the newly established district.

He went on to win that election in 1962 and each subsequent election through 1978. During that time, he had only one serious primary challenge and that was during the Vietnam war.

Ed Patten loved the House of Representatives. He was a Democrat who believed that we had a responsibility to meet the needs of the Republic's people. He felt privileged to serve with former Speakers of the House John McCormick and Tip O'Neill.

He sat on the House Appropriations Committee for many years, during which time he was an impassioned fighter for education. During his tenure on the Labor—Health and Human Services—Education Subcommittee, he championed the growth of higher education and our State university, Rutgers, held a special place in his heart.

He was also an advocate of the work done at Princeton and worked hard for the Princeton Plasma Physics Center, which as we all know has done recordbreaking research in the field of fusion.

But, Mr. Speaker, people remember Ed Patten for his love of his family, his fellow human beings, and for his love of Perth Amboy, NJ. He was Perth Amboy's favorite son. He lived in the same house on Market Street for his entire married life. He was enormously proud of his daughter, Sister Catherine Patten, to whom I want to extend my deepest sympathy. He was a man who could relate to the people because he was one of them. His favorite hours were spent in Perth Amboy at the Elk's Club. His office was open every Saturday, where he and his late wife, Anna, would see constituents all day. He was a good man with a generous and caring heart, and the problems his constituents had became his problems.

Mr. Speaker, it seems that here, in the House of Representatives, everyone who knew him has an Eddie Patten Story. Mine concerns one of his congressional elections, where his opponent publicly stated that, "running against Ed Patten is like running against Santa Claus."

I never had the privilege of meeting Ed Patten, but I wish I had.

GENERAL LEAVE

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on my special order just given.

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

There was no objection.

TRIBUTE TO THE LATE HON. ROBERT L.F. SIKES

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

Mr. HUTTO. Mr. Speaker, it is my sad responsibility to announce to the House that my predecessor, former Congressman Bob Sikes, passed away this morning. Congressman Sikes spent 38 years in this House of Representatives. He was a member of the Committee on Appropriations and was the chairman of the Subcommittee on Military Construction on Appropriations. He will certainly be missed by many, particularly those he served in northwest Florida. He was somewhat of an institution in our area.

Congressman Sikes is survived by his wife, Inez T. Sikes; a son, Robert K. Sikes of Orlando; a daughter, Bobbye Sikes Wicke of Indiana, and a number of grandchildren, great-grandchildren, and one great-great-grandchild.

Congressman Robert L.F. Sikes was 88 years old, and passed away this morning.

WHY CONGRESS SHOULD NOT PASS THE GATT AGREEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. BROWN] is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, yesterday the administration sent to Congress the Uruguay Round of GATT, the General Agreement on Tariffs and Trade. It deserves to be defeated. The lawyers who wrote this 3,000-page agreement included not one single provision for child labor laws, for worker rights, for labor standards, or even any prohibition against slave labor. Even NAFTA, as bad as it was, had a side agreement on labor.

I believe strongly that our Government should begin to negotiate trade agreements that benefit the people in the plant floors, not just high-powered international financiers. GATT ignores labor issues. The administration tried but failed to get labor provisions included in this agreement. We are left with another international trade agreement that does nothing to promote fair trade. This agreement does nothing to address the cruelest and most prevalent unfair trade practice of all, the suppression of worker rights by governments seeking low wage, low standard competitive advantage on the world market.

Why should American workers, the backbone of our country, the backbone of our economy, why should American

workers have to compete with workers who make \$2 a day if they are lucky? Until worker and labor standards are included in a trade agreement, we will never have fair trade, and American workers will continue to pay the price.

GATT is especially bad, because it would create a powerful new bureaucracy, an international bureaucracy known as the World Trade Organization. The WTO is a threat to the sovereignty of the United States and more trouble down the road for our country, for consumers, for people that work. Under the WTO, each nation in the world has one vote. Japan has one vote, Cuba has one vote, Haiti has one vote, even Saint Lucia has one vote. Saint Lucia would have the same voting power in the WTO as does the United States.

Of the 120 countries in the WTO, 80 of them as members of the United Nations voted against the United States more than 50 percent of the time. So if Cuba and Haiti and Saint Lucia decided the United States food safety laws violated the GATT agreements, our clean food, clean food safety laws, they could haul the United States before the World Trade Organization, which could impose sanctions on the United States. That would hurt our products when we try to sell them on the world market.

If you like Japan writing trade rules, then you will love GATT. If you want to put the United States on the same level with countries the size of a postage stamp, then the World Trade Organization is for you, then GATT is for you.

Meanwhile, the international trade deficit is killing America's competitive position in the world. The U.S. trade deficit in July alone, in 1 month, reached \$10.99 billion, the second highest level in our country's history. We have done a good job the last 2 years getting the budget deficit down. Unfortunately, the trade deficit is getting larger and larger. The deficit with Japan alone in July was \$5.67 billion. The deficit with China, which uses slave labor and has all the human rights violations that people on this floor have talked about, the deficit just last month with China was \$2.67 billion.

For too many years, we have allowed other countries to write our trade laws. That trade deficit of over \$100 billion this year kills American jobs. Balancing our international trade account would save approximately 160,000 jobs every month. That is why fair trade is so important to building a strong economic future for northeast Ohio and building a strong economic future across this country. That is why I will be voting against GATT next week.

#### THE CLASSROOM TECHNOLOGY ACT

The SPEAKER pro tempore. Under a previous order of the House, the gen-

tleman from California [Mr. LEWIS] is recognized for 5 minutes.

Mr. LEWIS of California. Mr. Speaker, I rise this evening to discuss a piece of legislation being introduced by my colleague, the gentleman from California [Mr. LEHMAN] and myself, dealing with the Classroom Technology Act, and I would like to yield to my colleague [Mr. LEHMAN].

Mr. LEHMAN. Mr. Speaker, there is much talk about the information superhighway and how the information revolution will affect our Nation's economic competitiveness. We usually discuss the information revolution in terms of maximizing worker productivity and improving the bottomline for business in the global economy, but there is one major sector in our Nation that is being left to scavenge back on the home front during the information revolution—education.

Students cannot be adequately prepared for the use of technology in the workplace if they are not educated with computers and other technologies in the classroom. Being able to program the VCR or play video games is not good enough. We—as community leaders, as policymakers, as concerned Americans—must take the lead in helping our schools take advantage of computer, telecommunications, and other technologies to ensure that our children are eager to take on the world and its educational resources.

We have seen remarkable changes in learning technology over the past quarter century. And yet, technology has not transformed schools to the degree it has other aspects of our society. In fact, a teacher from the little red schoolhouse of last century could walk into a classroom today and feel comfortable because so little has changed.

While many schools have and use computers in instruction, few schools have the capacity for any degree of two-way voice, data and video networking with data bases and with other schools. Only 12 percent of U.S. classrooms have a telephone. Only 4 percent of teachers have a modem, and only 4 percent have access to internet—NEA survey.

The classroom remains isolated and simplistic at a time when the world is becoming more interactive and complex. We are letting our budgetary and other constraints limit the possibilities for our students, our future work force. Instead of yielding to these constraints, we must push ahead with innovative ways of meeting our students' technological needs.

Earlier, this year, Mr. Speaker, we made the initial plans to meet these needs when we passed the Goals 2000 legislation, which incorporated the use of technology and telecommunications in achieving the national education goals. This legislation, as well as the Elementary and Secondary Education Act reauthorization—which includes a

title for technology for education for the first time—set the standards which schools must aim for.

Unfortunately, the schools have not been provided with the tools to meet these standards. A report by the National Institutes of Standards and Technology underscored this fact when it determined that the computer base in elementary and secondary schools is completely inadequate to meet the telecommunications applications of today. The report notes that of 80 percent of the computer base, over 50 percent are Apple Two's. This puts the students-to-computers ratio of 14 to 1 in the United States in proper perspective—quality education data study.

If there are 14 students sharing one computer, and that computer is 10 years—and at least 4 generations—old, it is obvious that very little innovation is taking place. While these computers are adequate for routine tasks such as games and drills, educational software is no longer developed for them and the students are definitely not learning to use equipment that they will encounter in the workplace. This is like teaching students to drive on the highway in a Model T.

That is assuming that the teachers are able to teach the students how to drive. Less than half of school districts in the United States have an introductory computer course for their teachers—IEA computers in education study. Because of this lack of formal training, teachers must learn as they go along and often only when the school computer is available. As a result, it takes teachers an average of 5 to 6 years to develop expertise in computer use which can be relayed to their students—NEA survey.

An additional gap in the quality of educational technology is the lack of connections between business and schools. For example, my State of California ranks last nationally in the computer-per-student ration—quality education data. In a State that boasts of cutting edge technology companies, this is an appalling statistic.

I believe that business and schools should link up to provide our children with effective technologies that will prepare them for the modern workplace. That is why I am introducing legislation with my colleague from California, Mr. LEWIS, which would provide incentives to businesses to share outdated equipment with schools and establishing a fund to improve schools' telecommunications capabilities.

The Classroom Technology Act encourages elementary and secondary schools, colleges, libraries, and other information sources to join together to share the resources they have through telecommunications. Once the urban and rural regions of the country are linked, connections to national networks of information and programming will be easier to make.

I strongly believe that the convergence of information and telecommunications will allow students to overcome income, geography, and other barriers to learning. Mr. Speaker, this can only benefit us as a society and as a nation because these students will grow up more aggressive and more well-rounded when it comes to information technology. We must begin the fight for our economic future today—I call on my colleagues to join me in laying the groundwork for our Nation's survival.

□ 1700

Mr. LEWIS of California. Mr. Speaker, I very much appreciate my colleague's contribution.

The least that we had hoped from the initial stages of this legislation is to create models, perhaps in more than one urban center, models in a rural sector of California and other States that essentially would provide a design as to how computers and computer technology can be used to better enhance and prepare our students for the technology so necessary for tomorrow, not just in the workplace but for their own personal use as well.

This is a critical moment in the history of American education. The use of technology has exploded, affecting all aspects of life from the workplace to the living room. Our children must have access to new technologies and information tools like computers, networks, CD-ROMs, modems, and the emerging information superhighway. To produce tomorrow's leaders, we must provide our children and their teachers with this kind of technology.

To better serve the needs of students and teachers, Congressman LEHMAN and I have introduced H.R. 5013, the Classroom Technology Act of 1994. This legislation will promote the use of technology and telecommunications in classrooms throughout the country. The bill focuses on school technology, grant programs, and incentives for public/private partnerships. It will give students the technology necessary to communicate with libraries, other students, and experts in every field across the country and around the world. This will be especially useful to rural districts like my own, where students often have trouble accessing essential information.

The Classroom Technology Act directs the Department of Education to coordinate educational technology activities among the related Federal and State agencies, industry leaders, and interested educational and parental organizations. There are many individual schools in the United States that have incredibly advanced programs for their students. I am fortunate enough to have one such school in my district, the Science and Technology Center in Apple Valley. I feel that it is vital that schools with good programs, like the

Science and Technology Center, share their knowledge and experience with other schools around the Nation. Our bill establishes an Office of Educational Technology that would oversee educational technology activities nationwide and help less progressive schools implement the programs proven valuable and successful.

Furthermore, our bill encourages public and private sector cooperation in providing schools with hardware and software. It establishes a clearinghouse with an 800 number at the Department of Commerce for businesses to donate their old computers. As you know, corporations are forever updating their equipment. While no longer state of the art, most of such equipment can still be extremely valuable, especially to schools which often lack the funds necessary to purchase any equipment at all. Under H.R. 5013, the businesses can get rid of older machinery and receive a tax break for the donation. Our schools will certainly benefit from the free technology.

H.R. 5013 would also direct the National Telecommunications Infrastructure Administration [NTIA] to set aside a percentage, 33 to 40 percent of its funds from the matching grant program for educational purposes. It would set up a joint Department of Education and NTIA fund for matching grants, the quickest way to maximize a modest amount of Federal money. The funds would come from the universal user fees and penalties that are collected by the Federal Communications Commission from telephone companies. The money would be used for school site infrastructure, from wiring to computers to satellite dishes.

While California is a high-technology giant in the eyes of the world, its classrooms are woefully unprepared to teach students the computer skills they need. With the rapid advancements in computer technology, we cannot afford to let a generation of students fall behind other leading industrialized countries. The Classroom Technology Act creates a public-private partnership involving students, parents, education, business, and Government. It will ensure that today's students are equipped for tomorrow's jobs.

#### CLASSROOM TECHNOLOGY ACT WOULD INTEGRATE COMPUTER LEARNING THROUGHOUT NATION

WASHINGTON, DC.—Citing the need to improve computer learning in America's classrooms to prepare students for the job markets of the future, Congressman Jerry Lewis has introduced the Classroom Technology Act of 1994, legislation that encourages the use of emerging computer and telecommunications technologies in a classroom setting largely through building partnerships between the business and education community.

"Today's students and tomorrow's leaders should and must be computer literate and technologically equipped to acquire the skills they need for the jobs of tomorrow," Lewis said.

"The information superhighway has become more than just a futuristic pipedream. It is our present—and our future. We must begin to prepare our classrooms for this necessary change in education."

According to Lewis, the measure directs the Department of Education to formulate a plan to coordinate educational technology activities among federal and state agencies, while also involving high-tech industry leaders and interested educational and parental organizations. The legislation would direct the National Telecommunications Infrastructure Administration to set aside a percentage (33-40%) of its funding for educational purposes.

The bill also encourages public/private cooperation in providing schools with computer hardware and software through establishing a computer clearinghouse with a toll-free number at the Department of Commerce. Under the legislation, businesses would receive a tax-break for the donation of outdated equipment, while students would receive free working computers.

"While California is a high-tech giant in the eyes of the world, its classrooms are woefully unprepared to teach students the computer skills they need," Lewis said.

"With the rapid advancements in computer technology, we cannot afford to let a generation of students fall behind other leading industrialized countries. The Classroom Technology Act creates a public-private partnership of students, parents, education, business and government to ensure that today's students are equipped for tomorrow's jobs."

#### SOO LINE RAILROAD

The SPEAKER pro tempore (Mr. SCOTT). Under a previous order of the House, the gentleman from Michigan [Mr. DINGELL] is recognized for 5 minutes.

Mr. DINGELL. Mr. Speaker, in accordance with a motion adopted by unanimous voice vote of the Committee on Energy and Commerce today, I am introducing legislation to extend and preserve the status quo through February 28, 1995, relative to the pending dispute between the Soo Line Railroad Co. and certain of its employees represented by the United Transportation Union. Mr. MOORHEAD, ranking Republican of the Committee on Energy and Commerce, Mr. SWIFT, chairman of the Subcommittee on Transportation and Hazardous Materials, and Mr. OXLEY, ranking Republican of the Subcommittee on Transportation and Hazardous Materials, are original cosponsors of this legislation.

The Soo Line Railroad is the ninth largest of 15 class I railroads in the United States. It operates over 5,000 miles of line in 11 States, including Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, North Dakota, South Dakota, and Wisconsin. The United Transportation Union [UTU] represents more than 1,000 employees of the Soo Line Railroad, including conductors and trainmen.

Since 1988, the Soo Line and UTU have been in contract negotiations pursuant to the provisions of the Railway Labor Act [RLA]. To date, all efforts to reach a voluntary agreement have failed, including efforts of the National Mediation Board [NMB] to mediate the dispute. In June 1994, the parties rejected the NMB's proffer of arbitration, thus triggering a 30-day cooling-off period that expired on July

14, 1994. Under the terms of the RLA, after the expiration of this 30-day period, either party was free to resort to so-called self-help, for example, the railroad could impose new contractual terms unilaterally or the union could engage in a strike.

On July 14, the Soo Line Railroad imposed new contract terms and the union commenced a strike. This situation persisted for 47 days until the President, by Executive Order 12925, effective August 29, 1994, created Presidential Emergency Board [PEB] No. 225. The President's order was based on the judgment of the NMB that the dispute "threatens substantially to interrupt interstate commerce to a degree that would deprive a section of the country of essential transportation service."

By the terms of the President's Executive Order, PEB, 225 was directed to investigate the dispute and report to the President within 30 days of its creation. As in other similar situations, the parties subsequently have stipulated to an extension of time for submission of the PEB's report until October 14, 1994, by letter dated September 21, 1994 from the chairman of PEB 225. Under the RLA, a final 30-day cooling off period follows the submission of the PEB's report. If no voluntary settlement is reached within such period, the parties are free to resort to self-help. Thus, assuming no further extensions, the date when the parties could engage lawfully in self-help activities is November 14, 1994.

Due to the potential ramifications that self-help could produce in this situation—at a time when Congress will have adjourned—the members of the Committee on Energy and Commerce believe it is essential that legislation be enacted that extends the final cooling off period until after the 104th Congress has been convened and organized. Such action is consistent with prior precedents, such as the 1988 Chicago NorthWestern strike, where the final cooling off period was extended past the date of the August recess.

Under the terms of the motion approved by the Committee on Energy and Commerce today, I have been directed to take action to have the resolution considered in the House under suspension of the rules at the earliest possible date. I, with the cooperation and support of our Republican Members, will follow through fully with the committee's instructions and hereby notify Members of the House of our intent to consider this legislation on the suspension calendar at the earliest possible date.

Clearly, it is the strong and unequivocal desire of every Member of Congress that the parties reach a voluntary agreement. The action authorized by the Committee on Energy and Commerce today encourages voluntary agreement of the parties by giving them sufficient additional time to consider the report of PEB 225 and to negotiate a final resolution of all outstanding issues. It is our sincere hope and desire that the parties redouble their efforts to bring an end to this dispute prior to February 28, 1995.

#### HAITI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. WELDON] is recognized for 5 minutes.

Mr. WELDON. Mr. Speaker, I rise today, again, as a member of the Committee on Armed Services to express my grave concern with what is happening in Haiti as well as my outrage at some additional facts that I learned today in a briefing that was provided to myself and other members of the Committee on Armed Services.

President Clinton has been telling the American people that this effort is a multinational effort and if you ask most Americans and, I think, most Members of Congress who is in Haiti right now, they would tell you, it is a multinational force.

At today's briefing we had the Deputy Secretary of Defense, John Deutch, and Lt. Gen. John Sheehan, who is the Director of Operations for the Joint Chiefs.

I asked that specific question. Right now, today, 10 days after President Clinton committed our troops and has told the American people it is a multinational force, how many Americans are involved in that effort? The answer is that there are 19,000 young Americans who are involved in Haiti today.

Then I said, "Would you tell me how many other troops are involved in that effort today right now, 10 days after the President committed us, after he has told the American people it is a multinational force?"

Secretary Deutch hemmed and hawed and talked about what is committed and what may be. I said, "No, what is there right now, how many troops that are not American?"

He said, "Well, about two dozen."

I said, "You mean like 24?"

Three times I repeated the question and three times Secretary Deutch confirmed that there are 24 non-United States troops involved in Haiti right now; 19,000 Americans and 24 troops, not 24 countries, 24 troops. I said, "Where are they?" And he said, "They are all in the command headquarters."

So we have 19,000 Americans in Haiti in harm's way and we have 24 troops from other countries who are all in the headquarters building.

Mr. Speaker, this is not what the Members of Congress and the American people have been led to believe. This is not what this President has told us in terms of the commitment and the involvement.

Last week he said that within 2 to 3 days the multinational forces would be in Haiti. Here we are 10 days later.

Some other things came out of the briefing. We learned today that the United States in fact will pay all of the costs, if and when other troops come in. So for the taxpayers of this country, we can now advise them that with our serious budget shortfall, if, in fact, we get other troops to come in, which is still doubtful, the taxpayers of this country will pay the full bill. We will pay their salaries. We will pay the cost of transporting them. We will pay all of their expenses.

And in fact, today we had an announcement that the Russians will send troops. We will pay the Russians, not the United Nations, the United States.

Mr. Speaker, this is outrageous. Not only are we going to pay the cost for the troops, but we even heard about big gun buy back program in Haiti. America is buying those guns. We, in fact, are the ones who are paying that bill. What is the cost going to be? Secretary Deutch could not give us an exact figure. Estimates range from \$800 million to \$1.5 billion.

The Secretary tried to focus on the fact that we should not legislatively impose a date certain to bring the troops out. Well, that is outrageous. Because most of us in this body do not think they should have been inserted there in the first place.

The Secretary and the President would tell us, they are going to be out within a few months, perhaps in the early part of 1995. If you read the Boston Globe today or yesterday, there is an article that says the U.S. military role may last until and through 1996.

Mr. Speaker, we are not getting good information. The American people are not being told the truth about what is happening in Haiti, and we have our men and women in harm's way. Now we hear, if you read the news accounts today, that what we thought was a suicide of one of our troops in Haiti is now thought to not be a suicide and, in fact, there was one AP report today that said it is likely not to be a suicide. We do not know the facts of that young military personnel's death, but we will find that out.

Mr. Speaker, what is happening in Haiti is outrageous because we are not given the facts and the chance to even ask the questions about what we are doing there.

Mr. Speaker, I wanted Strobe Talbott to be at the briefing today. Strobe Talbott was scheduled to be one of the witnesses, representing Warren Christopher, our Secretary of State. Strobe Talbott did not show up. But if I would have had him there, I would have asked him to respond to the internal memo of the United Nations from the United States special envoy to Haiti, Dante Caputo. On May 23 of this year, this is what he wrote to Boutros-Ghali:

To the minister's question about the existence of another alternative, other than force, Dante Caputo replies that the United States acted as a brake to a diplomatic solution, creating a situation where military intervention became nearly inevitable.

Mr. Speaker, as we all know, Dante Caputo resigned from the United Nations last week because of his objections to what we have done in Haiti. I have inserted twice in the record of this institution the full text of Dante Caputo's memos where he outlines everything that is happening now back in May of this year.

Mr. Speaker, this outrage has got to stop. We have got to have a full vote on this. We have to debate and we have got to bring our troops home, not next month, not 90 days but this week.

Mr. Speaker, I include for the RECORD the article to which I referred.

#### U.S. MILITARY ROLE MAY LAST UNTIL 1996

UNITED NATIONS.—U.S. officials have told the United Nations that they plan to maintain a significant military presence in Haiti until after a new president is inaugurated in 1996.

"The US presence" in the UN follow-up operation "will be fairly substantial," according to a senior UN official who said US forces could make up as much as 50 percent of a 6,000-member UN military and police presence. That force will take over the job of maintaining peace after the bulk of the 20,000 US combat forces withdraw. "They want to be involved until the UN withdraws from Haiti altogether."

In order to win public support for what is proving to be a distinctly unpopular use of military force, President Clinton last week played down the operation's potential for long-term commitment, promising that the United Nations will be capable of taking over the operation in as few as a "couple of months."

"Politically, the administration has to present this as a short-term intervention," said Matthew Vaccaro, an analyst at Defense Forecasts Inc., who participated in Pentagon policy discussions on Haiti until early this summer. "Public support is so tenuous, there's no way the administration could sell a long drawn-out and costly intervention."

At the same time, administration officials and military planners recognize that the United States would have to keep the coalition of peacekeepers from unraveling.

US planners also are betting that they can gradually earn the public's support to sustain a more long-term commitment if the initial military operation proves successful.

"The Clinton administration has deemphasized the key role that the US will play in the UN operation," Vaccaro said. "But they realize that in order for the follow-up UN mission to function there must be a large US presence."

Although UN officials are concerned a large US military presence in the UN follow-up mission may undermine its international complexion, they nevertheless would welcome a more robust US commitment. UN Secretary General Boutros Boutros-Ghali, frustrated by the Clinton administration's reluctance to stay the course in peace enforcement operations in Somalia and Bosnia, is reportedly hopeful that greater US involvement will improve the likelihood for success, restoring credibility to both the United States and the United Nations.

With "peace-keeping fatigue syndrome" spreading throughout the United Nations in the wake of Bosnia and Somalia, diplomats said Boutros-Ghali believes that the only cure is a dose of US arm-twisting. But senior UN officials overseeing the Haiti operation said they fear that Clinton may hand the ball off to them too soon.

Before placing the Haiti mission under the UN flag, Clinton has vowed that US forces will remove Haiti's military dictators, install a team of international police monitors, retrain a Haitian police force, restore Haiti's elected President Jean-Bertrand Aristide to office and create a secure and stable environment for the nation to begin preparations for elections.

UN officials said Washington has pretty much left them in the dark as to how it intends to accomplish these tasks, complicating UN efforts to recruit other countries to serve in the international effort. And they doubt that US troops will be able to create a secure environment for lightly armed UN replacements for at least several months.

These officials are also concerned that if public support for the US operation erodes after the invasion, the Clinton administration may choose prematurely to slough the operation off on the United Nations as it did a year ago in Somalia.

The Pentagon, they pointed out, long wary of the Haiti operation, is said to be eager to get troops out of Haiti as soon as possible, leaving the policing and nation-building tasks to international agencies.

"The military is interested in turning over the responsibilities for nation building and civil administration to the UN as soon as they can," said Dr. Richard Downes, a former staff military planner with the Joint Chiefs of Staff and currently director of communications at the University of Miami's North-South Center.

"They don't look at the postconflict period of Haiti with relish."

#### ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT ON H.R. 820, NATIONAL COMPETITIVENESS ACT

Mr. ROHRABACHER. Mr. Speaker, pursuant to clause 1(c) of rule 28, I announce to the House that tomorrow I intend to offer a motion to instruct conferees on H.R. 820. I had previously expected to offer this motion today. The form of the motion is as follows:

Mr. ROHRABACHER moves that the managers on the part of the House at the conference on the disagreeing votes of the 2 Houses on the Senate amendment to the bill, H.R. 820, be instructed to insist on the provisions contained in section 506 of the House bill, entitled "Prohibitions", the text of which is as follows: "None of the funds made available in this Act may be used to provide any direct Federal financial benefit to any person who is not (1) a citizen or national of the United States; (2) an alien lawfully admitted for permanent residence; or (3) an alien granted legal status as a parolee, asylee, or refugee."

□ 1710

#### THE BRYANT BILL, A GRASS-ROOTS GAG RULE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. GINGRICH] is recognized for 5 minutes.

Mr. GINGRICH. Mr. Speaker, I am going to speak today on the Bryant bill, a grassroots gag rule. I want to alert my colleagues that they should have in their office right now a letter to Members of Congress from the Christian Coalition entitled "Stop the gag rule on free speech, vote no on the lobbying disclosure conference report." I urge every Member to read that, because I do not think that Members realize that buried in this so-called lobbying bill is a deliberate grassroots gag

rule designed to kill precisely the pressure from back home that has been so effective in this Congress.

Let us be honest, Mr. Speaker, liberals hate grassroots voter pressure. It was voter pressure in support of home schooling that forced the liberals to pull out a provision that would have killed home schooling. It is the grassroots pressure of the right-to-life movement that has sustained a fight that liberals would have crushed years ago. It is the grassroots pressure of people who believe in the second amendment which has stopped the efforts by liberals to strip Americans of the right to bear arms. It has been the opposition to the Clinton tax increase by the grassroots which reduced it to a one-vote margin when the entire power structure of Washington was going to raise taxes on the American people.

Again and again, Mr. Speaker, whether it is school prayer, opposition to prohomosexual education in first grade, or a range of issues which are not politically correct here in Washington, it has been the grassroots who have risen up. The crowning blow to liberals was the grassroots opposition to the Clinton health plan which stopped in its tracks an effort to create a big government, big bureaucracy, big tax health plan.

Now what do we have? We have in the Bryant conference report an effort to strangle grassroots efforts. I urge every Member, get a copy of this report and look at the specifics I am going to give you today, so you understand, this is not some scare story. This is a danger of the Clinton administration getting even. This is the Clinton revenge bill, to get even with the grassroots activists.

This is what they say. This is in the bill, page 5:

Grass Roots Lobbying Communications—the term "inside grass roots lobbying communications" means—

(A) any communication that attempts to influence a matter described in \*\*\*

In these various clauses "through an attempt to affect the opinions of the general public. \* \* \*" This is not lobbying the Congress, but informing the general public.

(B) any communication between an organization and any bona fide member of such organization to directly encourage such member to make a communication to a covered executive branch official or a covered legislative branch official with regard to \*\*\*.

Any matter described here; again, not lobbying the Congress, but if you belong to a group and you try to talk to your own group, this is now going to be described by the Bryant gag rule as something inappropriate.

(C) any communication between an organization and any bona fide member of such organization to directly encourage such member to urge persons other than members to communicate \*\*\*.

In other words, if you are anywhere in America and you decide you want to

lobby Congress up to 10 percent of the time you are paid for, and you spend over \$2,500, which is one round trip from Los Angeles and hotel spending, one trip. From that point on under these rules you are going to be subject to the registration act, and you are going to have to report to the Director of Registration.

Who is the Director of Registration going to be? For 5 years, longer than a Presidential term, it is going to be somebody appointed by Bill Clinton. Let us say Roberta Achtenberg, for example, is appointed, a vehemently, in the case of Elders, anti-Catholic person.

Now we have a question: Is a papal message on school prayer political or is it religious? Is a papal message on homosexuality political or is it religious? Is a papal message on right-to-life political or is it religious?

Mr. Speaker, I happen to be Baptist, but I would say that those people who are worried about Joycelyn Elders' anti-Catholicism ought to ask, what would that kind of person do in the Director's office? By the way, the Director can assess a fine of up to \$200,000.

Now, you are a local grassroots organization out here. Let us say you are an antitax organization. Yes, you do the horrible thing of actually seeing your Member of Congress, lobbying. You actually pay one member to do this part time, and they spend 10 percent of their time seeing the Illinois delegation. They are now subject to filing every report as directed by Bill Clinton's appointee. If they do not, they can be fined, I believe, \$10,000 per occasion. This is madness.

Mr. Speaker, I ask my colleagues, read pages 5, 6, and 7 of this particular proposed bill, the Bryant gag rule. Let me just close and say that I hope this does not come up tomorrow. I hope we have several days to look at this. I am convinced it will die in the Senate. I think it ought to die in the U.S. House.

#### TRIBUTE TO FORMER MEMBER OF CONGRESS ED PATTEN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. PALLONE] is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, today, 14 years after Ed Patten's retirement from Congress, his name is still a household word in my district.

I did not have the good fortune to serve with Ed, but I now represent eight towns in Middlesex County that were in his district. My constituents, mayors and councilmen, educators, workers and businessmen continue to refer to him with the warmth, love, and respect that he engendered during the 18 years he served in the House of Representatives.

As a member of the Appropriations Committee, Ed fought tirelessly for

New Jersey and his district. His was responsible for seeing that vocational and adult education received the national attention and funding it deserved. Without Ed Patten, Rutgers University would not be the leading institution it is today and Princeton might never have obtained the special physics lab that has pioneered research in atomic fusion. Ed Patten was responsible for the creation of Middlesex County College.

He also initiated the restoration of Ellis Island and began the cleanup of the Raritan River. To students, senior citizens, factory workers, and consumers in general, Ed Patten was a hero.

There was the memorable personal side of Ed Patten. He was once referred to as Perth Amboy's answer to Will Rogers. This is because he had a unique wit and wisdom and never lost touch with his constituents.

He probably knew more of his constituents on a first-name basis than any Congressman in history. With his pockets full of pennies for the kids, he would attend weddings and funerals during his weekends home. He spoke the language of his constituents and reflected their views naturally.

Many remember Ed Patten as one of the most colorful individuals ever to serve in Congress. He was also a consensus builder. At a time when we perhaps take ourselves too seriously, it is worthwhile to reflect on Ed Patten and the perspective he brought to these Chambers. He knew it was important to stand up for what you believe in—and he did that on many occasions—but he also knew that whether you won or lost, it was as important to be a good loser as a good winner. In that way, both sides could move on to the next important issue and get things done, which is, after all, why we are here.

Upon Ed Patten's retirement 14 years ago, a letter was read in this Chamber from a Metuchen, NJ, woman whose sons had interned in his office. She wrote:

Both my sons were imbued with a sense of respect for the office you honor. In a time of doubt and cynicism, I am thankful that they had the opportunity to have developed such positive feelings about the workings of our government.

Ed Patten's passing gives us the opportunity to think about some of the things he stood for and perhaps make this institution function—for the good of everyone—in a more effective and less contentious manner.

□ 1720

#### CALLING FOR THE RESIGNATION OF SURGEON GENERAL JOYCELYN ELDERS

The SPEAKER pro tempore (Mr. SCOTT). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Illinois [Mr.

CRANE] is recognized for 30 minutes as the designee of the minority leader.

Mr. CRANE. Mr. Speaker, I rise tonight to inform colleagues about the introduction of a bill that I submitted last Friday, H. Res. 545. H. Res. 545 was the result of a frustrating experience that a number of us had in communicating with the White House on our conviction that our Surgeon General should be removed from office. The fact of the matter is we wrote 2 separate letters to the President urging him to call for her resignation and he did not agree. So we have introduced this legislation with 25 cosponsors already that calls upon the President to please seek to remove her from the bully pulpit where she sets so horrifying an example to the Nation.

There is a group called the Family Research Council. The Family Research Council has a member, Kay James, that responds to a number of the Elders' quotes that I would like to read.

Joycelyn Elders says:

"We have drivers' ed for our kids. We've taught them what to do in the front seat of the car but not what to do in the back seat."

Kay James responds:

"Why assume they are going to be in the back seat? Assuming that kids are going to be sexually active is comparable to giving them a license. But choosing to be sexually active is more critical than the decision to drive a car. Why don't we teach them what not to do in the back seat? Elders is known for saying 'you can't be what you can't see.' I agree with that, and unfortunately, she is not modeling anything that would give kids encouragement for abstinence."

Next quote from our Surgeon General:

"You've been preaching abstinence for a hundred years. I've still got a problem. I've still got thousands of teenagers having babies every year."

Kay James' response:

"The truth is that we have not been teaching abstinence to kids. Public schools have never implemented a comprehensive abstinence education curriculum in their family life programs. Title X funding is \$170 million compared with Title XX, abstinence education funding, at approximately \$1 million. No reputable study shows that contraceptive based programs have worked and many have shown otherwise. A Lou Harris poll shows that teens who have had a sex education course that discusses contraceptives have a 50-percent higher sexual activity rate than those who have not. Abstinence based programs are the only ones with a consistent track record of success, often dramatic success."

Again our Surgeon General:

"Look who's fighting the pro-life movement. A celibate, male-dominated church, a male-dominated legislature,

and a male-dominated medical profession."

Kay James' response:

"Wrong. Actually the 2 most prominent pro-life groups in the United States, National Right to Life, and the American Life League, are headed by women. Many minorities are pro-life. A 1989 Wirthlin Group National Survey shows that women are far more pro-life than men. In fact, the Black Americans for Life is one of the fastest growing pro-life groups in the United States. Her ad hominem arguments don't really address the issues."

Again our Surgeon General. Elders calls her critics "non-Christians with slave-master mentalities."

James responds:

"The slave imagery doesn't work on this one. Elders is trying to appeal to the days of slavery, equating the abortion struggle with a civil rights issue. Elders shouldn't denigrate the civil rights movement with her reference to what she calls "reproductive freedom." There are many of us who are growing weary of social engineers hijacking the freedom train to accomplish their own agenda."

Again, Joycelyn Elders:

"I would hope that we would provide prostitutes Norplant so that they could use sex if they must to buy their drugs."

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. CRANE. Yes.

Mr. BURTON of Indiana. That is almost too much for me to digest. Would the gentleman read that again? This is our Surgeon General saying this.

Mr. CRANE. Our Surgeon General, a direct quote. It was Talk Line on CNBC that they did on June 19, 1993. I will read it again:

"I would hope that we would provide prostitutes Norplant so that they could use sex if they must to buy their drugs."

Mr. BURTON of Indiana. If the gentleman would yield, I wish everybody in America could hear your special order tonight, because the moral foundation of any administration is extremely important to the moral health of the country. It appears to me and to many of my colleagues, yourself included, that there really is not much of a moral foundation in this administration. They have brought in every kind of deviate they can possibly think of into every agency of Government, and now they are advocating these kinds of policies for the people of this country? It makes no sense.

I would just submit when people start wondering why when the economy is not really bad that a President's popularity is going right straight down the tubes, it is because the people of this country understand that there is a moral problem that is being created, not solved, by the administration. This administration and

the people that he is putting in these key positions is killing the moral fiber of America instead of helping make it better. I think it is a sad state of affairs when the chief executive of this country would even put somebody like this in a position of leadership.

Mr. CRANE. I appreciate the gentleman's remarks.

The fact of the matter is on some of the remarks that have been made by our Surgeon General, the administration has attempted to position itself in opposition, in theory, yet has taken no action. Yet Dr. Elders herself remarked in an interview, "I saw the President recently and he congratulated me on what I've been doing."

Mr. BURTON of Indiana. Mr. Speaker, if the gentleman would yield further, that is the old ham-and-egg game that is played many times in politics to make people think that the guy on the white horse in the White House is really a good guy when he has got somebody else doing the dirty work that he supports.

If the President really thought that Joycelyn Elders was on the wrong track, it would be a matter of a snap of his fingers, he would replace her. The fact of the matter is, she is doing his bidding by pushing his social and moral agenda on this country. If he did not want her making these kinds obnoxious statements, if he did not want her talking about the youth of America like she does, he could get rid of her in a heartbeat. The fact of the matter is, he is in league with her and he does not want to do anything about it.

Mr. CRANE. I thank the gentleman for his comments.

I would be happy to yield to my colleague, the gentleman from California.

Mr. DOOLITTLE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I think the comments that have been made are very appropriate and I think it should not and they do not just focus on Joycelyn Elders because, after all, she was put in place by the President of the United States who has given her, it seems, based on the quotes that were just read, an unqualified endorsement and ratification of the extreme position she has taken.

Imagine, the very idea of teaching sex education to kindergartners in the public schools, to passing out condoms, to basically making comments that encourage promiscuous sexual activity, which apparently in her mind is OK, as long as you have a condom. We are witnessing a severe moral crisis in this country.

It is on my mind because of what recently happened to a good friend of mine in Rocklin who was literally run down by a 19-year-old who was mad about something. He was looking around for 3 days driving around, according to newspapers. So this woman is walking, Rocklin is a great place

where people walk and ride their bikes. She is out walking in the morning, 6:30 a.m., and he plows into the back of her going about 40 miles an hour. We have had numerous surgeries, it has only been about 4 weeks, I guess now, going on 5, so there are great injuries to be repaired. Thankfully it did not kill her.

But I am struck by a comment that William Raspberry made recently in the Washington Post, it was 3 or 4 weeks ago now, but I saved it. The article referred to the consciencelessness of our young people, not all our young people, but some of our young people, who apparently in the most minor dispute would settle it with a gun or a knife. It is getting to the point where the morals of this country have gone precipitously downhill, and I think it starts with moral leadership like we are getting from the top, President and Mrs. Clinton on down through Dr. Joycelyn Elders, the Surgeon General of the United States.

These comments about legalizing drugs. Every time you legalize something like that, you increase the use. The most widely used legal drug in the country, I guess, is alcohol, and we have a persistent problem with alcoholism, not only amongst our young people but amongst adults. If you want to see what would happen with drugs, look what goes on with alcohol and just magnify it and multiply it because that is exactly what you would have if you legalized marijuana or cocaine or heroin. It would be a disaster.

□ 1730

Then to have these statements about religion, which are just outrageous that have been made. You know George Washington, our country's first President said this Republic was founded upon and could only be maintained upon two fundamental pillars or foundations. One was religion and the other morality.

And when you have a republic that loses its religious base or that loses its morality you are going to lose your freedom. That was basically a paraphrase of the philosophy of the Founders.

I would just submit, Mr. Speaker, that we are in the process of losing that freedom. We all lose our freedom when we are fearful to go out on the streets, or to go out in our car because we think somebody might harm us. And we are losing our freedom when we subject ourselves to being preyed upon by people without conscience.

We had this debate I think on the crime bill, and to me I do not care how many police you hire or how many prisons you build, these are only interim solutions. They will never stem the flood unless we teach children values in the home, and that means children have to be raised with a mother and a father, ideally. And we as a country should seek to be cutting our taxes,

and cutting our regulations so that more mothers and fathers can stay together and teach those values in the home.

Instead of that you have a President Clinton come in who appoints somebody like Joycelyn Elders who preaches this gospel of free sex, and antireligion, and you have high taxes levied upon the people, while out of the other side of their mouths they are talking about reducing the deficit and getting in touch with the people. In reality they are deliberately hurting the people by putting a bigger burden of government on their shoulders, which leads to more family breakups which leads to more children being raised without that mother and father in the home, which leads ultimately to the present problems that we have. All of this 1960's generation, we have sown these seeds, and we are reaping the whirlwind right now with higher rates of crime, higher rates of illegitimacy, with the poor performance in the schools, the record amounts of abuse and spousal abuse. This is the bountiest harvest that the liberals have sown for us, and we ought to recognize what the problem is.

It is not because of the Reagan revolution where we tried to cut back on the excesses of government. It is because the liberals forgot that values mattered and that if you do not have values in the home and morals being taught, you do not have anything. And Joycelyn Elders' comments are just a perfect representation of this relativist, this moral relativism that has gotten us in such trouble.

Mr. CRANE. I could not agree with the gentleman more, and I agree with his comments.

Mr. BURTON of Indiana. If the gentleman will yield further, we had down here one evening a list of all of the Presidential appointments, like Joycelyn Elders, and the backgrounds on a number of them was unbelievable as far as their views on immoral activities and things that would lead this country in the wrong direction. I do not know whether the gentleman brought that with him tonight. Does the gentleman happen to have that?

Mr. CRANE. No; I do not have.

Mr. BURTON of Indiana. I hope that we will do another special order before we adjourn sine die, and I will try to get that list so that we can go through the backgrounds and the views of not just this but a number of Clinton appointees so that the people of this country can see that this is not an accident that this sort of thing is going on. I mean, there is a design they have put together and in position throughout all of this administration that is leading this country down what I consider, and I think most Americans consider to be an immoral road.

Mr. CRANE. I agree with the gentleman's assessment. The fact of the mat-

ter is the Surgeon General commands a bully pulpit for accomplishing real, positive things, and yet the example we have in Dr. Elders is the exact contrary.

Let me quickly read Kay James' response to that quote earlier, and I will repeat it one more time:

I would hope that we would provide prostitutes Norplant so they could use sex if they must to buy their drugs.

And Kay James' response:

This is perhaps the most irresponsible statement that any public health official has ever made. It shows a complete lack of understanding of the drug crisis, the AIDS epidemic and the growing menace of other sexually transmitted diseases. Elders is identifying pregnancy as the ultimate evil. What about the immoral and unhealthy behavior of prostitution? What about the abuse of drugs? It seems that Elders' only goal is to stop pregnancy, or more accurately, births.

Rather than give all of the responses from Kay James, I would heartily recommend to everyone again, because as I say, the Family Research Council here in Washington, DC, can provide all of the responses of Kay James, but let me give some more examples of Dr. Elders' quotes.

We pay for pregnancy but we won't pay for contraception. That doesn't make sense.

That was in the Raleigh news and Observer back in March of last year.

If Medicaid does not pay for abortions, does not pay for family planning, but pays for prenatal care and delivery, that's saying "I'll pay for you to have another good, healthy slave, but I won't pay for you to use your brain and make choices for yourself." It's a way to keep people poor, ignorant, and enslaved. If you're poor and ignorant you are a slave.

American Medical News in January of last year.

Mr. Speaker, I yield to my colleague from California [Mr. DORNAN].

Mr. DORNAN. I thank the gentleman for yielding. In racing over here from my Rayburn office, when I saw your wonderful countenance appear on the tube, I did not hear some of the opening remarks, so let me just, because they are all worth repeating, let me just hit and miss some things.

Did the gentleman get into the RECORD that sad story of Kevin Elders, the Surgeon General's son, that he has been sentenced for 10 years on cocaine?

Mr. CRANE. No, no, I did not touch about that.

Mr. DORNAN. What is interesting about this is the Surgeon General knew that he had been arrested and was procuring, as any good mother would, good, solid legal defense, working this through, during that period when the world did not know about the arrest, but Kevin knew, and the mother, the Surgeon General knew, she came out with her first suggestion about legalizing drugs, hardly a statement devoid of a vested interest. And that went on until the court case began that ended up with guilty for Kevin Elders.

This morning on my friend—not—Phil Donahue's show, there was America's prime radical lawyer, a man of great candor, William Kunsler. He said that this was a political case, that the judicial system was punishing Joycelyn Elders for her candor and openness and sending her son to jail for 10 years. That type of Oliver Stonehead extreme conspiracy fantasizing tears up America youth just as badly as it does for the chief health officer of the United States to say:

You young people should have legalized drugs. You young people should get condoms down to 9 years of age.

And then quoting her, she says:

And let me tell you about an 8-year-old in Arkansas that was pregnant with twins.

By the way, I have never doubted her word or her frankness except that story. I want to see an 8-year-old pregnant with twins. And I would like to know what happened to that pregnancy, and if these 9-years-olds should get condoms, and in the very adjacent sentence start discussing an 8-year-old, then we are fair in saying she wants 8-years-olds to have condoms. Among my nine grandchildren I have two 8-year-olds, and when I look at them, look at their faces, they both happen to be girls, I say, "Is this woman bereft of her senses?"

Here is another thing I want to discuss. Did any of my three colleagues discuss that the press went up to her after one of her more outrageous statements, and I am going to put them all in the RECORD either during your special order or I have another one that follows the gentleman from Indiana [Mr. BURTON], so we have time here to get this on the record, that Clinton was about to leave for Normandy for all of those photo ops, pushing veterans aside to see if he could get his poll numbers up, which did not happen, they went down, and while he was out of the country they went up to Joycelyn Elders and they said to her:

What about these last statements here, does the President know you're saying these things? Is he approving of all of this?

I have no reason to believe that Joycelyn Elders was not telling the truth when she said the following, remember, talking about legalizing drugs was not, not telling the truth, that was a hidden agenda because her son was arrested for cocaine, not only usage but selling.

□ 1740

And so that was deceitful and against openness, but nothing to do with, you know, not creating a story out of fiction. She said to the press, "The President, came up to me the other day and said, 'Joycelyn,'" and they are friends all the way back to Arkansas where she was chief health officer, and I do not know whether they have a military title assigned to it, "he said, 'Joycelyn, I love it.'" I have seen this in print.

Both of my sons saw it visually. She said, "Clinton said to me, 'I love what you are doing, Joycelyn, Keep it up. I am behind you.'"

Within days he had fired the drug czarina, the director of national drug policy, Kristine Gebbie, excuse me, the director of the AIDS program, he had fired Kristine Gebbie because the homosexual activists wanted Kristine Gebbie fired for shooting off her mouth and making dumb statements and mainly for all the wrong reasons, and they got her fired.

Less than 1 percent of this country is homosexual in or out of privacy, what the pejoratively call the closet, privacy is what it really is, and she gets fired by the activists of less than 1 percent of the country.

But the entire Nation of observant Jews, observant Catholics, observant Protestants, people of faith and belief are saying this woman is hurting our children, and he says, "I love what you are doing. Keep it up. I am behind you." She said "You think I am not telling you the truth? Ask him when he comes back from Normandy."

Well, did the press ask him? No, or if they did, they did not report it. It appears that the real problem here is not the Surgeon General but the man and the co-President and the administration that appointed her and tolerates these outrageous statements hurtful to the youth of America.

Mr. BURTON of Indiana. Can I involve my self in this colloquy?

Mr. DORNAN. I want you involved.

Mr. CRANE. I yield to the gentleman.

Mr. BURTON of Indiana. This is what I was talking about just a few minutes ago.

If you look through the appointments made by the President and this administration, it is amazing the number of people that have the same kind of liberal social agenda and immoral agenda, I call it, as Joycelyn Elders, and it permeates the entire administration.

The problem is the American people are not aware of all of these appointments. Joycelyn Elders stands out like a sore thumb because she makes such outrageous statements on a regular basis.

She is not the only one. There must be 20 or 30 of these people in very key positions who are advocating, at Personnel Management, OPM, and they have got a person over there right now, and I cannot think of the gentleman's name, that is advocating sensitivity training in all Government agencies for people to deal with homosexuals.

Mr. DORNAN. Sensitivity training means homosexuality must be raised to the level of family, of normal family, and Joycelyn Elders says, which is a dangerous lie, not a lie, a dangerous, stupid misstatement to the American people, that homosexual conduct is not

only normal, it is healthy, she says, healthy.

Mr. BURTON of Indiana. In Indianapolis in some of the government agencies over there, they are now mandating, and they have put up big bulletin boards for the homosexual community so they can set up meetings with one another. This is sanctioned by this Office of Personnel Management, and it makes no sense. I mean, they are actually advocating that with Government tax dollars, because that agency is in favor of it. Now, that is the problem. It is permeating this entire administration.

Mr. DORNAN. Absolutely. This must be like 1776; another patriot has arrived on the floor from the great State of Missouri.

Mr. CRANE. I yield to the gentleman from Missouri [Mr. HANCOCK].

Mr. HANCOCK. You know, you mentioned Joycelyn Elders holds gay sex healthy; it is broader than that. She says it is wonderful.

Mr. DORNAN. That is right, I forgot.

Mr. HANCOCK. She says it is wonderful and healthy. She says that it is wonderful and a normal and healthy part of our being. You know, she called the Boy Scout ban on homosexual scouts and Scout leaders unfair. She said school-based health clinics should address the needs of homosexuals as well as heterosexual students. Well, nobody is going to argue with that except the advocacy of it is where we draw the line.

I mean, certainly the people or schools, the students should be educated on sex hygiene and this type of thing, but not advocating it as she is advocating it, and there is a lot more to it than just saying that it is, and when they say healthy, I agree with the gentleman from California, this is one of the most dangerous activities that we can engage in, the homosexuals.

Mr. DORNAN. In some urban areas, it surpasses gunshot deaths for young males, AIDS infection.

Mr. HANCOCK. And they are not teaching the results of this type of activity. All they are teaching is how to perform it, how to get involved in it, and how to protect yourself, and there is only one protection, and that is absolute, and that is abstinence. I mean, it is just that simple.

So I fully support the fact that this individual should not be the Surgeon General of the United States, and I just wonder what other countries are looking at, how they think about all of this.

Mr. DORNAN. I do not know if other countries wear a Public Health Service uniform, but Dr. Koop, and I agreed with him on most things, I mean, he all by himself has saved hundreds of thousands of lives in America because he reduced the smoking rate from the high 30's down to the low 20's, and that is

going to have a health effect. I disagree with him on some of the things. I fought against my good colleague, the gentleman from California [Mr. WAXMAN], to get his appointment through under Ronald Reagan in 1981, and he turned 180 degrees on some issues and ran up a white flag of surrender, but Koop was on a weekend show a week ago Saturday, on "American Interests," no, on Adam Smith's economics show, and he was explaining the cost of unhealthy sex, although he caved in to the condom-distribution solution, and he went through the killer aspect of this.

So I called the Centers for Disease Control down in Atlanta and said, "Give me the new statistics on AIDS deaths in this country," and if my staff, which they are supposed to do, is watching me on the House floor, they are going, "Uh oh," because I asked them 4 days ago to get the June 30 cutoff. I do not have it. I am reaching for it, and it is not in my mind. So I will go with September 30, first, 217,000 dead Americans. Remember Legionnaires' disease, it broke out here again with one to two dead people; I think the total there never passed the 20 mark. Two hundred seventeen thousand dead.

Dr. Koop told me that figure in 1983, 1984, 1985, 1986, and 1987 was low by 10, probably 20 percent, he said. Let us take 10. Ten percent of 217,000 means over 257,000 deaths, and 200,000 of those deaths are attributed to homosexual conduct and/or drug-using homosexuals. They do not know which way they got it.

You know, we are approaching World War II death totals of 312,000, depending on your encyclopedia. In 4 or 5 years, more young males, not in combat, except sexual combat, will have lost their lives than above the sea, under the sea, in the jungles, the sand, and the forests of Europe, all over the world, 312,000 Americans, and this is called healthy by the Surgeon General to protect our health.

Then, as I started to say, I do not know what other countries do, but Koop bragged about how he brought the uniform back, because it gave him a uniqueness, particularly with that Lincoln-esque beard, and I do not know what ribbons he wore, but Joycelyn Elders has about three rows of ribbons. There was a rumor out she was wearing a Purple Heart. That was a little wild, and turned out that was not true. But most of those ribbons, if not all of them, are ribbons awarded to the Public Health Service. Servicemen listening know what a unit commendation is. You wear it when you are in the unit, but when you leave the unit, you do not take it with you. That is because you are in that unit that got a Presidential commendation.

She wears all of these combat ribbons, and she is killing people, the wrong way, with the wrong advice, so I

just think that we have got to look to who hired her and who protects her, not that she should resign in disgrace.

And do we all know what the word is on the street, the conventional wisdom? It is that she has something on the man who appointed her, because she was head of the health departments in Arkansas when several cases came up against her relatives, and I do not want to speak poorly of the dead who have gone to heaven, particularly when they are part Irish, but there were some cases that came up. One of them he was in this 2-year short term as attorney general in his early thirties, 30 to 32, and then he become Governor, 32 years of age, another case came up, and there are rumors in Arkansas that Joycelyn Elders played a key role, which means she is not fireable. She is protected by her gender, by her ethnic heritage, and by these rumors.

So I guess we are going to have to live with her 2 more years, so that is why I want to focus in on the person who appointed her.

**PRESIDENT CLINTON AND GOVERNOR JIM GUY TUCKER OF ARKANSAS**

The SPEAKER pro tempore (Mr. SCOTT). Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 30 minutes.

Mr. BURTON of Indiana. Mr. Speaker, I will be happy to dedicate another 10 minutes to this discussion, if you would like. I am going to need about 20 minutes.

Mr. CRANE. If the gentleman will just yield to me for a parting statement that I would like to make, and I concur with the remarks of my colleagues tonight, the ultimate responsibility and the buck stops at the President's doorstep. The President made the decision to put her in. It was not like she was a total stranger, that he knew nothing of her background, put her in that position. He has been written to, as I indicated at the outset, on two different occasions with multiple colleagues calling for him to seek her resignation.

□ 1750

So my resolution, House Resolution 545, as I indicated, has 25 cosponsors right now. I would urge my other colleagues to get on board and hopefully we can get the President's attention and replace Dr. Jocelyn Elders with someone qualified for that job.

I thank the gentleman for yielding.

Mr. BURTON of Indiana. I thank the gentleman for taking the initiative on that resolution. I would be more than happy to be a cosponsor if I am not already.

Mr. DORNAN. May I ask a question?

Mr. BURTON of Indiana. Certainly.

Mr. DORNAN. What was the subject of the gentleman's special order?

Mr. BURTON of Indiana. The subject of my special order is President Clinton and Gov. Jim Guy Tucker of Arkansas and their possible nefarious activities in Whitewater and some other development corporations down in Arkansas.

Mr. DORNAN. I will listen attentively. I thought that it might be Haiti because the gentleman from Indiana is a renaissance man like Mr. HANCOCK and Mr. CRANE, and we are all concerned about this—it is not a briar patch anymore, it is a tar pit. We are like a big woolly mammoth stuck in a tar pit down there, only it is not going to be Chelsea who is going to be sniped at, it is going to be some women in uniform down there. All of our men are targets down there now. It should not be called Mission Restore Democracy, it should be called Mission Creep. But I have a perfect dovetail subject where our health services in the military are worried about our young men in Haiti.

Mr. BURTON of Indiana. Because of the AIDS virus.

Mr. DORNAN. You got it. The gentleman and I started this discussion in 1985. It is not just AIDS, not just AIDS which has permeated the whole prostitute class down in Haiti, but, get this: A bigger sampling than anybody would have dreamed for to get a percentage rating on the whole nation of Haiti was available at Guantanamo from this cross-sample of people with the strength to get out of the country on a raft and out into the hurricane season of the Windward Passage. Seven percent of the people of Haiti are infected with the HIV/AIDS, always fatal, virus.

Mr. BURTON of Indiana. You are talking about 1 out of 12 people.

Mr. DORNAN. 1 out of 12 people.

Now, AIDS is bad enough, but hepatitis B, that is the one that changes your life—I had hepatitis A in the Air Force once, and they should not have even called both of them hepatitis. Hepatitis A is nothing. I just could not give blood anymore because I have it forever. But B is the killer, the one that has permeated the whole homosexual activist groupings in the United States. Hepatitis B is medium to high level worldwide standards. Now, get this next line that I am reading in all these reports out of Haiti: Penicillin-resistant syphilis penicillin-resistant gonorrhea, real virulent strains, and penicillin-resistant two or three other sexually transmitted diseases, are by worldwide standards medium to high in Haiti. The truth is everybody should watch everybody else down there. Nobody should get a 3-day pass. When it settles down, if ever, nobody should go on leave and nobody should go near any prostitute back in the bushes. This is going to cause Americans to be curled up in a prenatal position on a bed, holding their mother's and dad's hand, brothers and sisters around

them. Not homosexuals, GI's. And 5, 10 years, even as late at 15 years from now, dying in the prime of life because of one moment of weakness, dying in the prime of life when they are supposed to be restoring democracy.

Now, Mission Creep, a daily evolving, dangerous mission with no direction, is going to cause a major health problem. Now, we released all the Haitians in the early waves that came to Guantanamo into the United States where by a court order of one Florida judge who had more regard for this country, some flakey liberal judge, how many Americans are going to come back from Haiti?

I am going to tell you this, DAN: Does the gentleman know that I affected the CBS news one night by calling Dan Rather? I had had an acquaintance with him, sponsored a dinner for him in the Speaker's dining room once, with Bill Dannemeyer, a pal of mine who has retired. I said would he take my call? So he took my call. This is like 1985 or early 1986.

I said, "Dan, Bob Dornan." And he said, "Yes, Congressman, what can I do?"

I said, "Dan, you just said something on the air tonight that is not true. You said the major categories for AIDS," this is in the 1985-1986, 8 years ago, maybe 8½ years, "still are homosexuals, hemophiliacs, and Haitians. And that is a nice alliteration, but Haitians had nothing to do with hemophilia or activism in homosexuality. There is no genetic coding in Haitians that make them susceptible to AIDS or makes them have AIDS more than any other nation in the world. You are not only slandering a country, it is historically inaccurate, and you are causing a terrible social problem for every decent Haitian, whether they are naturalized American citizens or not."

And he said, "Well, Congressman, what is the answer?"

I said, "Are you broadcasting from New York this week?"

He said, "Yes." I said, "Check it out, check it in the homosexual community in New York. New York homosexual activists have discovered Haiti as a vacation port of call. They took AIDS to Haiti. And when health people interviewed Haitians"—and I know of what I speak, Dan, because I am a loyal Catholic. People of French Catholic culture, when asked if they took money for homosexual services, they deny it. So every Haitian, whether he is into voodoo or practicing Catholic or some Protestant faith, will say, "I have had no homosexual contact."

So you think it is something genetic. I said, "Dan, it is New York homosexuals taking it to Haiti, and it spread in that country because they are impoverished and when tourists come down there with a lot of money, it breaks down people's moral ethos."

And he said, "Congressman, I am going to check it out, get into that."

He never again said Haitians as a category. NBC and ABC were not into that. And nobody was heard in this Nation about Haitians.

Now, where did I get all of that brilliant dialog? Down at the Centers for Disease Control, up at the National Institutes for Health, out at my friend Tony Fauci. So here I am defending the honor of Haiti by explaining how they got this disease. Now it is up to 7 percent.

Now, I do not want to take any more of the gentleman's time, but what I would like to do, because I have my 30 minutes, is to tell people that I have been trying to get a special order here for 2 or 3 weeks to document carefully with every statement. I put it in the RECORD before, and there were some misprints. I want to go through this on Jocelyn Elders, following the gentleman's special order. I will truly, as I do every time the gentleman is talking about all of these scandals bottled up in the press—

Mr. BURTON of Indiana. So there will be some consistency, we can let the gentleman go and I will just follow up with mine afterward because I think we ought to have some consistency for the record. I would be happy to take an interruption here.

Mr. Speaker, we understand that the gentleman from Michigan has a special order between the two of us. Is that correct?

The SPEAKER pro tempore (Mr. SCOTT). The gentleman from Michigan [Mr. BONIOR] has a 1-hour special order, and the order after that would be the gentleman from California and then the gentleman from New York after that.

Mr. BURTON of Indiana. How much time do I have left on my special order, Mr. Speaker?

The SPEAKER pro tempore. Twenty minutes.

Mr. DORNAN. I will tell you what I will do—

Mr. BURTON of Indiana. I would be happy to yield to the gentleman.

Mr. DORNAN. If you let me do my prolog, I will then put in all of our statements in the RECORD. I agree continuity is important.

Now, here is good news for Mr. BONIOR: I will then sit and listen to the gentleman's special order and then waive my 30 minutes and then he goes. So usually I try to be extemporaneous because I think through the C-SPAN television cameras you grab people more, grab the feeling that it is from your heart—tell it as you see it from your heart. I want this just right.

#### WHY JOCELYN ELDERS SHOULD BE FIRED

Now, that is my title. Now the prolog: the overall mission of the office of the U.S. Surgeon General is the protection, improvement, and advancement of the health of all American people.

The primary responsibility of our Surgeon General is to advise the Nation on public health matters. As the Nation's top spokesperson on issues of public health, the American people look to the person who serves as the Surgeon General for guidance and leadership on such matters.

Now, my statement: Clearly, our current Surgeon General, Jocelyn Elders, has failed in the mission of her office. She has demonstrated hostility toward mainstream American values and mocked American citizens who want public policy to reflect the Judeo-Christian ethical standards of our culture.

□ 1800

Elders has also abused the public trust and compromised her ability to unify the American people under the common goal of sound public health policies. Moreover, her policies and pronouncements are dangerous to the health and well-being of families in America.

Now what I will do is just give paragraph titles, and then they can find it in the RECORD.

Jocelyn Elders on Teenage Sexuality: three extremely offensive and harmful statements.

I just got a message from my staff. AIDS figures will not be updated until October. We used to get them every month. Now we have to sit with December 21 figures. Since this is the middle of September I said 217 were dead. It was really more like 250. We are already up to 275,000 given the death rate.

So, I put in those on teenage sexuality:

Jocelyn Elders continues to taunt and ridicule Americans who advocate principles of sexual restraint and responsibility as a means of preventing unwanted pregnancies and/or sexually-transmitted diseases.

Elders disregards and disdains that abstinence is the only proven method of preventing unplanned pregnancies and sexually-transmitted diseases and should be part of any education program. In fact, Elders' prescription for dealing with the problem of teenage pregnancy includes free condoms in grade and high schools; explicit and graphic sex education beginning as early as kindergarten and; unrestricted, tax-funded abortion.

Elders even went so far as to say, "We have driver's ed for our kids. We've taught them what to do in the front seat of the car, but not what to do in the back seat." (Evening Times, 3/4/92). Yet during her previous tenure as Arkansas health director, the incidence of teenage pregnancy and sexually transmitted diseases actually rose steadily—even after posting steady declines in the years before her appointment (Alan Guttmacher Institute and Arkansas Department of Health).

Next on homosexual activity, one, two, three extremely offensive statements:

#### ON HOMOSEXUAL ACTIVITY

Jocelyn Elders continues to advocate a re-definition of the traditional family structure by supporting the adoption of children by homosexuals (USA Weekend Interview, 6/2-5/94).

Elders has said, "Yes [Boy Scouts should admit homosexuals]. I also think girls who are lesbians should be allowed to join the Girl Scouts." (USA Weekend Interview, 6/3-5/94).

Regardless of documented evidence that shows homosexual behavior is associated with communicable venereal diseases such as hepatitis and the always fatal AIDS, Elders has endorsed homosexual sex as "healthy," "wonderful," and "normal" (The Advocate, 3/94). This has given a false sense of security to all those who engage in high-risk sexual behavior.

On abortion, one, two, three, four amazingly offensive, bigoted and anti-Catholic specific statements:

#### ON ABORTION

Jocelyn Elders is a relentless advocate for abortion on demand for any or no reason. She has even said that, "Abortion has reduced the number of children with severe birth defects \* \* \* The number of Down's syndrome infants in Washington State in 1976 was 64 percent lower than it would have been without legal abortion \* \* \* Abortion was the single most important factor in the significant decrease in neonatal mortality between 1964 and 1977." (Testimony before Senate Labor Committee on FOCA, 5/23/90).

Elders continues to insult and demean Americans who believe pre-born children are human beings worthy of constitutional protections as well, telling pro-life advocates to "get over their love affairs with the fetus." (Arkansas Democrat-Gazette 1/19/92).

Elders has also characterized people who oppose abortion as "non-Christians with slave-master mentalities" who want "to keep people poor, ignorant, and enslaved." (American Medical News, 1/11/93).

Regarding those who are morally opposed to taxpayer financed abortion, Elders claimed, "If Medicaid does not pay for abortions, does not pay for family planning, but pays for prenatal care and delivery, that's saying: I'll pay for you to have another good, healthy slave." (Arkansas Democrat-Gazette 1/19/92).

On religious bigotry, this is a category she has publicly demonized and marginalized Americans whose values are rooted in religious tenets and who advocate public policies that reflect those values. One, two, three, four statements on that:

#### RELIGIOUS BIGOTRY

Jocelyn Elders has publicly demonized and marginalized Americans whose

values are rooted in religious tenets and who advocate public policies that reflect their values.

Elders has characterized those who hold moral and religious values as harmful to our Nation's children and has said, "We've got to be strong to take on those people who are selling our children out in the name of religion." (June 22, 1994, Lesbian and Gay Health Conference).

Elders has also criticized how religious leaders view human sexuality and has called those who oppose sex education the "un-Christian religious right" (June 22, 1994 Lesbian and Gay Health Conference).

When asked why there was such a sharp rise in teen pregnancy in Arkansas during her tenure as Arkansas Health Director, Elders claimed it was, "poverty and ignorance and the Bible-Belt mentality." (National Review, "Life and Death in Arkansas," 4/26/93).

Furthermore, Elders continues to wage a non-stop, public attack on Roman Catholics by saying, prior to her appointment, "Look who's fighting the pro-choice movement: a celibate, male-dominated Church." (Address to Arkansas Coalition for Choice, 1/18/92).

Reckless judgment calls, what a category, one, two, three, four, five, and I think those will cause people to die in this country because the statement from the bully pulpit, in uniform, combat, decorations to the Public Health Service emblazoned across her uniform.:

#### RECKLESS JUDGMENT CALLS

Joycelyn Elders has demonstrated reckless judgment on serious societal problems with statements such as, "I would hope that we would provide them [drug-abusing prostitutes] Norplant, so they could still use sex if they must to buy their drugs." (CNBC "Talk Live", 6/19/93); and

In addition, despite strong evidence that illegal drug use is on the rise, Elders has said that "We would markedly reduce our crime rate if drugs were legalized" (National Press Club Luncheon) and recommended that "we have doctors or clinics set up where addicts can get their drugs free or pay \$1." (USA Weekend, 6/3-5/94).

When Elders was asked about her son Kevin's recent conviction for selling cocaine, she replied, "I don't feel that was a crime." (Houston Chronicle, 9/3/94)

Elders has even justified higher Federal spending on AIDS research rather than on cancer and heart disease because, "most of the people that die with heart disease and cancer are our elderly population, you know, and we all will probably die with something sooner or later" and that "we are losing the people that's going to be paying my Social Security, and that bothers me." (Senate committee hearing, 5/11/94).

And while claiming to care about the health of our children, Elders reck-

lessly refused to notify the public about defective condoms dispensed by the State of Arkansas to school-based clinics.

In conclusion, and then I am finished: Surgeon General Joycelyn Elders continues to exploit her privileged position and compromise her ability to unite the American people under the common goal of improving the health of the general public.

More importantly, Elders is failing to carry out the overall mission of the Office of the United States Surgeon General and is therefore failing to protect, improve, and advance the health of all Americans.

Joycelyn Elders' unrelenting, insulting statements demean our Nation's top public health post and common decency demands that the President ask for her resignation.

If we were earlier in the session, I would draw up articles of impeachment, and I found out through our top Parliamentarians that I would have been able to get a little earlier in the year a vote whether or not to table that as a privileged motion, and that vote, to smart people all across the country, would have been an up or down vote on Joycelyn Elders. We will just have to wait and see what the election results are. I am sure my friend, the gentleman from Michigan [Mr. BONIOR], will be back. I will try and recruit him, and, if that does not work, another solution:

Fire Mr. Clinton and the co-President.

Mr. BURTON of Indiana. Mr. Speaker, I thank my colleague, the gentleman from California [Mr. DORNAN], for his remarks, and I am glad we got that information into the RECORD.

I would like to, in the remaining time I have, talk about the continuing saga of Arkansas. Arkansas is a great State, but, boy, they have got a history of all kinds of allegations against government officials down there that just boggles the mind. Right now there is an investigation going on by the independent counsel that is probably going to take 6 months or longer because of Whitewater, and Morgan Guarantee Savings & Loan, and all of these alleged nefarious activities that took place under the Clinton administration in Arkansas.

Now tonight I want to talk about a related subject that parallels what happened under Bill Clinton's administration in Arkansas with the Whitewater Development Corp. Jim Guy Tucker, who is now the Governor of Arkansas, was the Lt. Gov. of Arkansas under Bill Clinton. He became Governor when Clinton was elected President. They are very close political allies. He is running for reelection this year against Republican Sheffield Nelson.

Governor Tucker, as I said, is a close political ally of President Clinton. Like President Clinton, Mr. Speaker,

he has been involved in several questionable business deals with James McDougall that contributed to the bankruptcy of Madison Guarantee Savings and Loan at a cost to the taxpayers of \$47 million.

According to press reports, Mr. Speaker, the Resolution Trust Corporation, the RTC, has subpoenaed documents from Governor Tucker's businesses going back over a decade, and the RTC is pursuing fraud claims against him. These same kinds of allegations have been made against President Clinton and Whitewater, and these are being investigated as well. The RTC has named Governor Tucker in a criminal referral to the Justice Department. Governor Tucker is a possible target for indictment in the independent counsel's investigation into the failure of Madison Guarantee Savings and Loan.

Now Jim Guy Tucker borrowed over \$1¼ million from Madison Guarantee Savings & Loan. When Madison was taken over by Federal regulators in 1986, Governor Tucker's \$1 million loan for a sewer system was one of the largest delinquent loans on the books. According to the Wall Street Journal, Governor Tucker never filled out, never filled out, loan applications or put up a down payment. He told the Little Rock Democrat Gazette, "I called up Jim McDougall if I wanted to borrow money." He did not even fill out applications for \$1 million. It would be kind of nice for Americans to be able to go and do that anytime they needed money.

So, Mr. Speaker, this raises serious questions. How can a thrift savings institution whose deposits are insured by the Federal Government, by the taxpayers, loan hundreds and thousands of dollars without getting so much as a written loan application? How could a federally insured savings and loan give out hundreds and thousands of dollars in loans without getting even a small down payment? Could it be because of the political influence of President Clinton, or then-Governor Clinton, and now Governor Jim Guy Tucker? To what extent did Jim Guy Tucker's bad loans at Madison contribute to Madison's \$47 million tax-funded failure?

Governor Tucker also borrowed over three-quarters of a million, and this is a different one, over three-quarters of a million dollars from David Hale's Capital Management Services Co. Jim Guy Tucker was a millionaire primarily because of his investments in cable television. However Capital Management Services was licensed by the Small Business Administration to loan to people only, quote, "who are socially or economically disadvantaged small business people." Now, if he was a multimillionaire as a result of his cable television industry, how could he borrow money from the SBA when they were supposed to only loan money to

people who are socially or economically disadvantaged? This is because, obviously, of the political influence.

One of Tucker's companies defaulted on \$100,000 of those loans, and Capital Management Services also went bankrupt. David Hale has pled guilty to fraud and is now cooperating with Federal investigators. David Hale has accused both Bill Clinton and Jim Guy Tucker of applying political pressure to get him to make inappropriate loans.

So, this raises more serious questions. No. 1, why would a millionaire like Jim Guy Tucker go to David Hale's company to borrow money when he could borrow from any bank in Arkansas? No. 2, Jim Guy Tucker represented both David Hale and Capital Services as an attorney, Capital Services Management in legal matters, and borrowed from Capital Services Management repeatedly. He was a legal counsel, and he borrowed from them all the time. How could he be unaware that they were supposed to make loans only to disadvantaged people and still go ahead and get a loan himself? No. 3, to what extent did Jim Guy Tucker's bad loans contribute to the failure of Capital Management Services? No. 4, did Jim Guy Tucker and Bill Clinton pressure David Hale to make loans that the law prohibited him from making, as David Hale claims?

Mr. Speaker, that, we believe and hope, is being investigated by the independent counsel. But it also ought to be investigated by the Congress of the United States, and, if we get a majority next year, you can rest assured that we will have these investigations that are now being stonewalled by the Democrat majority in this House.

Now two examples of Jim Guy Tucker's tangled financial transactions: One was the Castle Sewer and Water Co. In 1986 Jim Guy Tucker formed the Castle Sewer and Water Co. to purchase the water utility associated with a new development called Castle Grande. He purchased the utility from Madison Financial Co., a subsidiary of Madison Guarantee Savings and Loan, both owned by Jim McDougall, Bill Clinton's partner in Whitewater. Tucker's company borrowed \$1.2 million from Madison Guarantee Savings and Loan to purchase the water company. He put up a down payment with \$150,000 that he borrowed from David Hale's Capital Management Co.

Now think about that. He borrowed \$1.2 million, and how did he make the down payment? He borrowed \$150,000 with no collateral, evidently no collateral, from Capital Management Services, David Hale's company. An appraiser with close financial ties to Madison Guarantee put the utility's value at \$1.3 million.

□ 1810

When the RTC, the Resolution Trust Corporation, took over the loan a year

later, an independent appraiser placed the true value of that property at only \$640,000, about half of what they said it was worth a year earlier. This is one of several known instances of appraisers with ties, with ties, to Madison Guaranty Savings & Loan, inflating the value of the properties. And when you get into this, you find that these people who are making these appraisals have financial dealings with these institutions as well. And one questions whether or not they were being twisted or blackmailed into raising the appraised values of these properties. It sure raises one's hair a little bit to think that sort of thing was going on.

Tucker's company made payments on the note for only 5 months. He only made payments for 5 months. When the RTC ousted Jim McDougall from Madison Guaranty in July, the Castle Sewer note was one of the largest delinquent notes in the Madison Guaranty portfolio, which cost the taxpayers \$47 million.

In 1989, the Resolution Trust Corporation negotiated a settlement with Jim Guy Tucker's lawyers and reduced the amount of the loan from \$1.2 million to \$525,000. That is a pretty good deal. They lowered it by more than half. However, a year later they were still missing payments even on the \$525,000. The \$150,000 loan that he used to get the \$1.2 million loan from Capital Management Services was never repaid. That \$150,000 just went out the window. Instead, Capital Management Services had to settle for a one-third stake in the worthless sewer company. So, for the \$150,000, they got one-third ownership in a sewer company that was defunct, and that contributed to the failure of David Hale's company.

In 1989, Jim Guy Tucker sold his stake in the company, \$1.2 million, he sold his stake in the company for \$10, and he walked away from the whole mess.

Questions: How could Jim Guy Tucker, a millionaire with extensive holdings in several companies, just walk away from a legitimate business debt and saddle the taxpayers of America with it?

Two: How could Jim McDougall get away with a conflict of interest like approving a million dollar loan when the transaction involved his own company?

Three: How could Jim McDougall get away with basing a million dollar loan on an appraisal performed by an appraiser with a serious conflict of interest?

Four: How could Jim Guy Tucker get away with borrowing over \$1 million without putting up a cent of his own money?

Five: Why, after the RTC cut the loan amounts by \$600,000, was Tucker's company still unable to make regular payments?

Six: Why was the \$150,000 loan from Capital Management Services never repaid?

Now, let us talk about the Castle Grande Development. Also in 1986, Jim Guy Tucker borrowed \$260,000 from Madison Guaranty Savings & Loan to invest in 34 acres of the Castle Grande land development deal being put together by Jim McDougall. This is very similar to Whitewater, what Bill Clinton was doing. They parallel each other. If you put them on the chart and go down, they did almost the same thing, like almost they learned from one another. As everyone knows, Jim McDougall was Bill Clinton's partner in the Whitewater Land Development deal.

Half of the \$260,000 was to be used to purchase the land, and the other half was to pay for improvements on the land. According to the Associated Press, Federal investigators are investigating whether Jim Guy Tucker committed bank fraud by misrepresenting what he would use the loan for. The funds were never spent on the land, they were never spent on land improvements. They were spent to pay off a loan Tucker guaranteed for a friend.

So the money he borrowed, the \$260,000 was for land purchases and improvements. He took the money for the land improvements, and instead of using it for that purpose, he committed what many believe is bank fraud by paying off a loan for a friend.

A second appraiser with financial ties to Madison Guaranty valued the land at \$350,000. Here again we have somebody who was tied to Madison Guaranty, had financial ties, who appraised this land at \$350,000. Yet when the RTC took over the land, they appraised it for one-third of that value, \$120,000. Once again, the taxpayer gets the shaft.

Jim Guy Tucker quickly turned around and sold the land to Southloop Construction Co. which he coowned, for \$350,000, which was a \$200,000 profit for him. Southloop Construction Co. funded this purchase partly with a \$100,000 loan from Capital Management Service. Again, David Hale's company was never repaid.

Southloop Construction never paid off the loan from Madison. After becoming seriously delinquent, it was paid off in 1993 by another one of Tucker's companies.

Question: Once again, how could an inflated appraisal be accepted from an appraiser who was indebted to Madison Guaranty? The appraiser evidently owed over \$200,000 to them. He made the appraisal and obviously was going to do what they said, because he was owing them \$200,000 at the time.

Again, why was Jim McDougall allowed to approve a loan in which he had a personal financial stake? This is a serious conflict of interest and a violation of the law.

Third, after Jim Guy Tucker made a \$200,000 profit by selling the land to his own corporation based on an inflated appraisal, why was he allowed to walk away from the \$100,000 he still owed to Capital Management?

To reiterate some previous questions to what extent did Jim Guy Tucker's bad loans at Madison Guaranty contribute to that S&L's downfall, which cost the taxpayers \$47 million, you and me and all of the country. To what extent did Jim Guy Tucker's bad loans at Capital Management Services contribute to its downfall? And did Jim Guy Tucker and Bill Clinton both exert political pressure on David Hale to make loans not allowed under its license with the Small Business Administration?

We need answers to all of these questions, and we need a complete investigation. Not like that which the Committee on Banking, Finance and Urban Affairs had in this House, or they had in the other body. Those investigations were a whitewash of Whitewater.

What they ended up doing was saying when we started to question people about things like what happened with Whitewater and Vince Foster's death, they gave the Republican Members and all Members 5 minutes to question 10 people and get answers. You cannot question one person and get answers in 5 minutes. They had them questioning 10 people at one time, and they had 5 minutes to get both the questions and the answers in. Even everybody watching across the country came to the conclusion, anyone paying attention, that this certainly was inefficient and not a complete investigation.

We have millions and millions and millions of dollars of taxpayers' money that has been stolen, literally, by people involved in these corporations. Bill Clinton, it is alleged, used his political influence, and many people believe that documents we need to prove that have been shredded. We can go into that, and that would take more time than I have tonight.

Now, we find that Lieutenant Governor Jim Guy Tucker, his Lieutenant Governor and colleague in politics down there, is accused of doing the same thing, and there is documentation that proves there is merit to these arguments. That is why the independent counsel is investigating this.

But even through we have an independent counsel looking into these allegations and looking into these cases very thoroughly, the defraud of this country of millions and millions of dollars from the taxpayers, we still need a complete and thorough investigation by the Congress of the United States.

We have not been able to get the majority party to go along with that. We have had a whitewash of Whitewater. We are probably now going to have a whitewash of this Castle Grande Development Corp. And the people of this country should not tolerate it.

All of these things I have been talking about on the floor for the past month or month and a half should be investigated thoroughly, not only by the independent counsel, but by a selected committee, of both Democrats and Republicans in this House. We are talking about honesty and integrity in government, and taxpayers' money, and the Congress of the United States is charged with responsibility of spending taxpayers' money in the right way.

Since taxpayers have been defrauded in these cases, we need to have congressional investigations. So as we come close to adjourning sine die in this session of Congress, I just would like to say to my colleagues, when we come back in January, one of the first orders of business should be complete and thorough hearings into Whitewater and all related matters, even if it involves the President of the United States and Hillary Clinton.

□ 1820

#### REGRETTABLY, NAFTA ISN'T WORKING

The SPEAKER pro tempore (Mr. SCOTT). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Michigan [Mr. BONIOR] is recognized for 60 minutes as the designee of the majority leader.

Mr. BONIOR. Mr. Speaker, there's an old story my grandfather used to love to tell about the time he immigrated from Ukraine to Hamtramck, which is a small enclave within the city of Detroit.

The town was filled with Polish and Ukrainian immigrants. And one time one of the people from the old country robbed a bank. He was caught right away, but he didn't have the money on him. And he didn't speak a word of English.

The police chief got an interpreter, sat them both down in the jail, and told the interpreter, "Ask this man where the money is."

The interpreter asked, but got no answer.

The chief took out his gun, placed it on the table, and said: "You tell this guy he better answer or he's in big trouble."

The interpreter asked again, but again, he got no answer.

Finally, the chief picked up the gun, pointed it at the bank robber's forehead and said, "You tell this guy he better talk or he'll be sorry."

The interpreter delivered the message, and this time the robber said in Polish: "I confess. I stole \$100,000 and dropped the money in a dry well behind the bank. The money's there."

The interpreter thought for a moment, turned to the chief and said: "The robber says he's not afraid to die."

Mr. Speaker, I think of that story a lot whenever I think about the North

American Free-Trade Agreement—whenever I hear the way it's being interpreted.

Mr. Speaker, last fall at this time, many of us in this House opposed NAFTA because we thought it was a bad deal for American workers and American jobs.

We felt that the American people deserved a better deal, one that would increase the standard of living in this country while raising Mexico's standard to our level.

One that would stick up for the rights of working families while doing more to improve the human rights situation in Mexico.

We thought we could do better. But as we all know, Mr. Speaker, NAFTA passed. It's now the law of the land.

And now that it is the law, we all hope that it works. We all hope that it will help American families and not hurt them.

And indeed, now that we've passed the 6-month mark of this treaty—if you listen to interpretations of NAFTA by the Commerce Department and others who supported this agreement—it's clear some believe it is working.

But I am concerned, Mr. Speaker. I am concerned that many of the interpretations I have seen by the Commerce Department and others recently take the same tact they did last year during the NAFTA debate: they only looked at half of the story.

While we all hope that NAFTA works—until we're honest with ourselves and look at both sides of the story—we have to recognize that it never will work.

We are here tonight, Mr. Speaker, to talk about the other side of the story. The side of the story we must pay attention to if this treaty really is going to be a boon to America.

Let me talk about why I find the recent claims of the Commerce Department extremely misleading.

They point out that United States exports to Mexico are up 17 percent. What they don't say is that imports from Mexico are up 21 percent, and that's cost us jobs.

They point out that the United States has exported 22,000 vehicles to Mexico from January to July. What they don't say is that we have imported 221,000 vehicles from Mexico—10 times more than we sent them—and that's cost us jobs.

They claim that NAFTA could create 100,000 jobs this year, with no supporting documentation. What they don't say is that 35,000 workers from 224 firms in 37 States have already applied for benefits due to jobs lost from NAFTA and that's just through August.

Using the logic of the Commerce Department report, you would conclude that the 1962 New York Mets were a good baseball team because they won 40 games. Their NAFTA math lets you

overlook the fact that the 1962 Mets lost 120 games, and that's why they're known as one of the worst teams in baseball history.

When you look at both sides of the story, it's easy to understand why our trade surplus with Mexico has dropped by over 30 percent in the past year alone. It's gone from \$1.6 billion to \$1 billion—and headed in the wrong direction fast.

In fact, I believe we really need to take a look at our entire trade policy.

In trade figures that just came out last week—at the same time they're trying to sell us good news about NAFTA—our overall trade deficit recently rose to the second-highest level in history. It surged to over \$10 billion in July.

Our deficit with Japan alone soared to \$5.67 billion for the month of July—adding to the \$60 billion annual deficit they held over us last year. Our deficit with China reached \$2.67 billion in the same period.

We can't keep closing our eyes to both sides of the story. We can't keep listening to the happy talk while closing our eyes to the other side of the story. It's time we get real.

Clearly, the deficit is a disturbing trend. But an equally disturbing trend is emerging among our top auto competitors that should concern us all.

Again, this wasn't discussed at all in the Commerce Department report, but it's something we have to watch closely.

Last year, there were many of us who warned that once NAFTA passed, our top auto competitors would use Mexico as an export platform into the United States.

Since NAFTA eliminates tariffs between the United States and Mexico, we feared that countries such as Japan, Korea, and Germany would set up shop in Mexico in order to export cars into the United States duty-free, in effect, skirting the existing tariffs we charge those countries to import cars into our country which would further erode our balance of trade.

That was our concern and regretfully, it appears to be exactly what's happening.

In the short time since NAFTA passed, several major Japanese and European automakers have announced plans to build or expand production in Mexico.

Since NAFTA passed, Honda has announced plans to construct a \$50 million plant in Guadalajara that will begin assembling Honda Accords in November of next year.

BMW has revealed plans to invest \$180 million to begin operations in a plant just west of Mexico.

Nissan recently opened a new plant in Mexico as part of a 6-year, \$1 billion plan to double its production capacity in North America.

Volkswagen only sold 50,000 cars in the U.S. last year.

Now, after NAFTA, they plan to boost production in Mexico and vow, and I quote, "to sell more than 100,000 cars" in the United States this year.

Even Toyota President Tatsuro Toyoda, who has never even exported cars to Mexico before, was recently reported in *Automotive News* to be quote, "interested in Mexico as a possible production base, following the implementation of NAFTA."

And it's not just foreign auto companies that are moving to Mexico. Samsung of Korea just announced this month that it would start building a \$150 million electronics plant in Tijuana.

And listen to the reason why. When a Korean Government economist was asked "why Mexico," he didn't say, "because we want to sell more products to Mexican consumers." He responded that quote, "Latin America is very important (because) it provides easier access to North America markets."

Meanwhile, our automotive trade in the first 9 months of NAFTA has followed the same unhealthy pattern that was set before NAFTA.

We sell them parts, they turn those parts into finished vehicles and then they ship them back to us.

When you look at the Commerce Department's own figures, you find that ranked in dollar value, our No. 1 manufactured export to Mexico is auto parts, while our No. 1 manufactured import from Mexico is finished vehicles.

What's the benefit of our exports to Mexico if they come right back across the border to us and never reach the Mexican consumer?

And why can't workers in the United States assemble those cars just like we have for over 100 years?

The more we ignore the reality of these numbers, the more we put the jobs of our own workers in jeopardy.

Finally, Mr. Speaker, let me describe to you a case which I believe calls into question the depth of our commitment to the side agreements that were signed to get NAFTA passed.

If you recall, Mr. Speaker, last year the administration negotiated two separate side agreements—one on the environment and one on labor rights—that everyone agreed were vital to getting the treaty passed.

As part of the labor side agreement, our Government committed itself to helping enforce workers rights in Mexico.

We committed ourselves to challenging Mexico to live up to the letter of their own law and promised to take immediate action if any violations were reported.

Well, earlier this year, there was a case that tested that commitment.

Shortly after NAFTA went into effect, 11 workers at a General Electric Plant in Juarez and 20 workers at a Honeywell plant in Chihuahua were fired.

The reason? Because they were trying to organize a union. Working conditions in one of the plants were so dangerous that workers consistently came down with headaches and nausea and so, they spoke out about it.

They met in their own homes and tried to organize a union just like workers in the other plant.

And for that, they were fired.

The treatment of these workers were in clear violation not only of Mexico's own domestic laws, but of the labor side agreement of NAFTA.

Because these workers had been in contact with organizers from several American unions, those unions submitted a formal complaint to the Labor Department.

Under NAFTA, the Labor Department is responsible for investigating their claims and the Labor Department agreed to hold a hearing.

Since this was the first hearing of its sort, it was to set an important precedent.

But if the precedent it set is any indication of how stringently we're going to enforce NAFTA, we all have reason to be concerned.

First, the hearing was scheduled to be held not in El Paso—which was the U.S. site nearest to the complaints—but in Washington, which most of the witnesses could not afford to travel to.

Then, the hearing was scheduled for August 31. But anyone wishing to testify had to submit written testimony by August 19th—which happened to be 2 days before the biggest election in Mexican history, which most of the witnesses were participating in. So there was no time to prepare.

After numerous letters from members of Congress to protest the date, it was finally moved to September 12.

But the hearing limited testimony to 10 minutes per person, including translation time—which actually cut the testimony down to 5 minutes per person. This for people who had traveled thousands of miles to make their case.

Four panels spoke. But there were no questions asked of the first or fourth panels, and only limited questions of the third panel.

What's more, cameras, tape recorders, and videotaped testimony was not permitted, which completely limited public access.

And while the Labor Department said transcripts would be made available within 3 days, they now say they are making none available. If you want one, you have to call the recording company.

It took my office over 2 weeks to get a copy.

Mr. Speaker, I think you would agree, this is not a good precedent to set. And if this is any gauge about our commitment to the side agreements, we all need to be concerned.

Mr. Speaker, last year, we fought for a better NAFTA agreement.

Now, that's its law, we all hope that it works.

But until we're honest with ourselves, until we look at both sides of the story, and work to honor the commitments that we made, it never will work.

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Mr. Speaker, I call upon everyone to join in making sure that it does work.

Mrs. BENTLEY. Mr. Speaker, the demand in this nation for humane law, and the expectation of fair and equal treatment for all Americans, has made many of us naive in dealing with nations rooted in other traditions, other value systems, other legal structures.

The lack of fair treatment of Mexican labor whether by their employers or by their representatives to the NAFTA or by our NAFTA representative's inability to move the Government of Mexico toward a more humane attitude toward its own citizens should not come as a surprise.

Under what special power can the long, dark history of civil rights violations in Mexico be changed? By the mere shipping of a tripartite trade agreement such as NAFTA?

I think not.

In one of the poorest nations of the world, which counts among its elite 30 billionaires—more than are counted in any one of the industrialized nations—most of them created since Mexico privatized many of its national industries during the 1980's—the notion of expecting that individual human rights would be upheld above all considerations of making money is rather farfetched.

A commentary upon the difficulty of dealing with the laws of the various nations through the dispute panel mechanism central to every one of these major trade agreements, including the proposed GATT, was made most brilliantly by retired U.S. Circuit Judge Malcolm Wilkey regarding the decision by the Extraordinary Challenge Commission of the Canadian Free Trade Agreement on exports of soft wood lumber products into the United States.

Representing the United States on the ECC appeal against Canadian subsidies of soft wood lumber, Judge Wilkey, outvoted 2 to 1, clearly stated the dangers inherent in the dispute panel process:

It is clear that a new body of United States law, fathered by Binational Panels and ECCs under the CFTA (soon NAFTA), will be created, while long-established U.S. law will continue to be applied to imports from all other countries. All of this has occurred in the operation of this innovative scheme of appellate review between Canada and the United States, two common law countries with similar traditions and antecedents. Now we have Mexico as a third member of NAFTA, and in the near future perhaps Chile and other Ibero-American countries. Mexico has no legal system or traditions in common with the United States whatsoever; it is proudly a Civil Law country. . . . If Canadians on the Panels and ECCs have failed—as in my judgement here they have—to comprehend the United States standards of judicial review of administrative agency action, what can we expect from lawyers and judges schooled in the Civil Law?

Mr. Speaker, what can we expect also from the more than 120 nations in the GATT who

will have power over our domestic laws equal to that which we have given Canada and Mexico? Nations as unaccustomed to freedom and civil rights as China and Sri Lanka, Russia and Malaysia.

Will our higher standards in every phase of our every day life appear to them to be nothing more or less than structural impediments to the free flow of their goods into our markets?

Of course they will. Just as Venezuela is going to charge before the GATT that our standards for clean gasoline were designed just to keep their lower standard of gasoline out. And, never forget, that this administration was prepared to give Venezuela a waiver under the threat of a challenge to the old toothless GATT, until the Senate stopped that nonsense. Imagine how far Mr. Kantor will roll under a GATT with enforcement powers if the Venezuelan challenge is upheld.

And we are being told we have nothing to fear if the new GATT passes.

Ask the workers in the GE plant and the Honeywell plant how much better life is for them now that the NAFTA is going into effect. Obviously not much.

These agreements are not good deals for America. They seem to not be helping the workers in these other nations and they will be devastating to the jobs of American workers. They will ultimately strip the Congress of all of its powers guaranteed in the Constitution over the whole body of U.S. interstate and foreign commerce law.

We should have voted no on NAFTA. We must vote no on GATT.

#### GENERAL LEAVE

Mr. BONIOR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my special order today.

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

There was no objection.

#### RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 6 o'clock and 40 minutes p.m.) the House stood in recess subject to the call of the Chair.

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#### AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SCOTT) at 7 o'clock and 27 minutes p.m.

#### CONFERENCE REPORT ON H.R. 6, IMPROVING AMERICA'S SCHOOLS ACT OF 1994

Mr. KILDEE submitted the following conference report and statement on the

bill (H.R. 6) to extend for 5 years the authorizations of appropriations for the programs under the Elementary and Secondary Education Act of 1965, and for certain other purposes:

CONFERENCE REPORT (H. REPT. 103-761)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6), to extend for five years the authorizations of appropriations for the programs under the Elementary and Secondary Education Act of 1965, and for certain other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

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

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

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Improving America's Schools Act of 1994".

#### SEC. 2. ORGANIZATION OF THE ACT.

This Act is organized into the following titles:

TITLE I—AMENDMENTS TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

TITLE II—AMENDMENTS TO THE GENERAL EDUCATION PROVISIONS ACT

TITLE III—AMENDMENTS TO OTHER ACTS

TITLE IV—NATIONAL EDUCATION STATISTICS

TITLE V—MISCELLANEOUS

#### SEC. 3. EFFECTIVE DATES; TRANSITION.

(a) EFFECTIVE DATES.—

(1) TITLE I.—

(A) Title I and the amendment made by title I of this Act shall take effect July 1, 1995, except that those provisions of title I that apply to programs under title VIII (Impact Aid) of the Elementary and Secondary Education Act of 1965, as amended by this Act, and to programs under such Act that are conducted on a competitive basis, shall be effective with respect to appropriations for use under such programs for fiscal year 1995 and for subsequent fiscal years.

(B) Title VIII of the Elementary and Secondary Education Act of 1965, as amended by title I of this Act, shall take effect on the date of the enactment of this Act.

(2) TITLE II.—Title II of this Act and the amendments made by title II of this Act shall take effect on the date of enactment of this Act, except that section 236 (equity for students, teachers, and other program beneficiaries) of such title shall be effective—

(A) July 1, 1995 for noncompetitive programs in which funds are allocated on the basis of a formula; and

(B) for programs that are conducted on a competitive basis, with respect to appropriations for use under such programs in fiscal year 1995 and in subsequent fiscal years.

(3) TITLE III.—(A) Parts A and B of title III of this Act and the amendments made by such parts shall take effect on July 1, 1995.

(B) Part C of title III of this Act and the amendments made by such part shall take effect on October 1, 1994.

(b) TRANSITION.—Notwithstanding any other provision of law, a recipient of funds under the Elementary and Secondary Education Act of 1965, as such Act was in effect on the day preceding the date of enactment of this Act, may use funds available to such recipient under such predecessor authority to carry out necessary

and reasonable planning and transition activities in order to ensure a smooth implementation of programs authorized by this Act.

**TITLE I—AMENDMENTS TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965**

**SEC. 101. AMENDMENTS TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.**

The Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.) is amended to read as follows:

**“SECTION 1. TABLE OF CONTENTS.**

“This Act may be cited as the ‘Elementary and Secondary Education Act of 1965’.

**“TITLE I—HELPING DISADVANTAGED CHILDREN MEET HIGH STANDARDS**

**“SEC. 1001. DECLARATION OF POLICY AND STATEMENT OF PURPOSE.**

**“(a) STATEMENT OF POLICY.—**

“(1) **IN GENERAL.**—The Congress declares it to be the policy of the United States that a high-quality education for all individuals and a fair and equal opportunity to obtain that education are a societal good, are a moral imperative, and improve the life of every individual, because the quality of our individual lives ultimately depends on the quality of the lives of others.

“(2) **ADDITIONAL POLICY.**—The Congress further declares it to be the policy of the United States to expand the program authorized by this title over the fiscal years 1996 through 1999 by increasing funding for this title by at least \$750,000,000 over baseline each fiscal year and thereby increasing the percentage of eligible children served in each fiscal year with the intent of serving all eligible children by fiscal year 2004.

“(b) **RECOGNITION OF NEED.**—The Congress recognizes that—

“(1) although the achievement gap between disadvantaged children and other children has been reduced by half over the past two decades, a sizable gap remains, and many segments of our society lack the opportunity to become well educated;

“(2) the most urgent need for educational improvement is in schools with high concentrations of children from low-income families and achieving the National Education Goals will not be possible without substantial improvement in such schools;

“(3) educational needs are particularly great for low-achieving children in our Nation’s highest-poverty schools, children with limited English proficiency, children of migrant workers, children with disabilities, Indian children, children who are neglected or delinquent, and young children and their parents who are in need of family-literacy services;

“(4) while title I and other programs funded under this Act contribute to narrowing the achievement gap between children in high-poverty and low-poverty schools, such programs need to become even more effective in improving schools in order to enable all children to achieve high standards; and

“(5) in order for all students to master challenging standards in core academic subjects as described in the third National Education Goal described in section 102(3) of the Goals 2000: Educate America Act, students and schools will need to maximize the time spent on teaching and learning the core academic subjects.

“(c) **WHAT HAS BEEN LEARNED SINCE 1988.**—To enable schools to provide all children a high-quality education, this title builds upon the following learned information:

“(1) All children can master challenging content and complex problem-solving skills. Research clearly shows that children, including low-achieving children, can succeed when expectations are high and all children are given the opportunity to learn challenging material.

“(2) Conditions outside the classroom such as hunger, unsafe living conditions, homelessness, unemployment, violence, inadequate health care, child abuse, and drug and alcohol abuse can adversely affect children’s academic achievement and must be addressed through the coordination of services, such as health and social services, in order for the Nation to meet the National Education Goals.

“(3) Use of low-level tests that are not aligned with schools’ curricula fails to provide adequate information about what children know and can do and encourages curricula and instruction that focus on the low-level skills measured by such tests.

“(4) Resources are more effective when resources are used to ensure that children have full access to effective high-quality regular school programs and receive supplemental help through extended-time activities.

“(5) Intensive and sustained professional development for teachers and other school staff, focused on teaching and learning and on helping children attain high standards, is too often not provided.

“(6) Insufficient attention and resources are directed toward the effective use of technology in schools and the role technology can play in professional development and improved teaching and learning.

“(7) All parents can contribute to their children’s success by helping at home and becoming partners with teachers so that children can achieve high standards.

“(8) Decentralized decisionmaking is a key ingredient of systemic reform. Schools need the resources, flexibility, and authority to design and implement effective strategies for bringing their children to high levels of performance.

“(9) Opportunities for students to achieve high standards can be enhanced through a variety of approaches such as public school choice and public charter schools.

“(10) Attention to academics alone cannot ensure that all children will reach high standards. The health and other needs of children that affect learning are frequently unmet, particularly in high-poverty schools, thereby necessitating coordination of services to better meet children’s needs.

“(11) Resources provided under this title can be better targeted on the highest-poverty local educational agencies and schools that have children most in need.

“(12) Equitable and sufficient resources, particularly as such resources relate to the quality of the teaching force, have an integral relationship to high student achievement.

“(d) **STATEMENT OF PURPOSE.**—The purpose of this title is to enable schools to provide opportunities for children served to acquire the knowledge and skills contained in the challenging State content standards and to meet the challenging State performance standards developed for all children. This purpose shall be accomplished by—

“(1) ensuring high standards for all children and aligning the efforts of States, local educational agencies, and schools to help children served under this title to reach such standards;

“(2) providing children an enriched and accelerated educational program, including, when appropriate, the use of the arts, through schoolwide programs or through additional services that increase the amount and quality of instructional time so that children served under this title receive at least the classroom instruction that other children receive;

“(3) promoting schoolwide reform and ensuring access of children (from the earliest grades) to effective instructional strategies and challenging academic content that includes intensive complex thinking and problem-solving experiences;

“(4) significantly upgrading the quality of instruction by providing staff in participating schools with substantial opportunities for professional development;

“(5) coordinating services under all parts of this title with each other, with other educational services, and, to the extent feasible, with health and social service programs funded from other sources;

“(6) affording parents meaningful opportunities to participate in the education of their children at home and at school;

“(7) distributing resources, in amounts sufficient to make a difference, to areas and schools where needs are greatest;

“(8) improving accountability, as well as teaching and learning, by using State assessment systems designed to measure how well children served under this title are achieving challenging State student performance standards expected of all children; and

“(9) providing greater decisionmaking authority and flexibility to schools and teachers in exchange for greater responsibility for student performance.

**“SEC. 1002. AUTHORIZATION OF APPROPRIATIONS.**

“(a) **LOCAL EDUCATIONAL AGENCY GRANTS.**—For the purpose of carrying out part A, other than section 1120(e), there are authorized to be appropriated \$7,400,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

“(b) **EVEN START.**—For the purpose of carrying out part B, there are authorized to be appropriated \$118,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

“(c) **EDUCATION OF MIGRATORY CHILDREN.**—For the purpose of carrying out part C, there are authorized to be appropriated \$310,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

“(d) **PREVENTION AND INTERVENTION PROGRAMS FOR YOUTH WHO ARE NEGLECTED, DELINQUENT, OR AT RISK OF DROPPING OUT.**—For the purpose of carrying out part D, there are authorized to be appropriated \$40,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

“(e) **CAPITAL EXPENSES.**—For the purpose of carrying out section 1120(e), there are authorized to be appropriated \$41,434,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

“(f) **ADDITIONAL ASSISTANCE FOR SCHOOL IMPROVEMENT.**—For the purpose of providing additional needed assistance to carry out sections 1116 and 1117, there are authorized to be appropriated such sums as may be necessary for fiscal year 1996 and each of the three succeeding fiscal years.

**“(g) FEDERAL ACTIVITIES.—**

“(1) **SECTION 1501.**—For the purpose of carrying out section 1501, there are authorized to be appropriated \$9,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

“(2) **SECTIONS 1502 AND 1503.**—For the purpose of carrying out sections 1502 and 1503, there are authorized to be appropriated \$50,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

**“SEC. 1003. RESERVATION AND ALLOCATION FOR SCHOOL IMPROVEMENT.**

“(a) **PAYMENT FOR SCHOOL IMPROVEMENT.—**  
“(1) **IN GENERAL.**—Except as provided in paragraph (3), each State may reserve for the proper and efficient performance of its duties under subsections (c)(5) and (d) of section 1116, and section 1117, one-half of 1 percent of the funds allocated to the State under subsections (a), (c),

and (d), of section 1002 for fiscal year 1995 and each succeeding fiscal year.

"(2) MINIMUM.—The total amount that may be reserved by each State, other than the outlying areas, under this subsection for any fiscal year, when added to amounts appropriated for such fiscal year under section 1002(f) that are allocated to the State under subsection (b), if any, may not be less than \$200,000. The total amount that may be reserved by each outlying area under this subsection for any fiscal year, when added to amounts appropriated for such fiscal year under section 1002(f) that are allocated under subsection (b) to the outlying area, if any, may not be less than \$25,000.

"(3) SPECIAL RULE.—If the amount reserved under paragraph (1) when added to the amount made available under section 1002(f) for a State is less than \$200,000 for any fiscal year, then such State may reserve such additional funds under subsections (a), (c), and (d) of section 1002 as are necessary to make \$200,000 available to such State.

"(b) ADDITIONAL STATE ALLOCATIONS FOR SCHOOL IMPROVEMENT.—From the amount appropriated under section 1002(f) for any fiscal year, each State shall be eligible to receive an amount that bears the same ratio to the amount appropriated as the amount allocated to the State under this part (other than section 1120(e)) bears to the total amount allocated to all States under this part (other than section 1120(e)).

#### "PART A—IMPROVING BASIC PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES

##### "Subpart 1—Basic Program Requirements

#### "SEC. 1111. STATE PLANS.

##### "(a) PLANS REQUIRED.—

"(1) IN GENERAL.—Any State desiring to receive a grant under this part shall submit to the Secretary a plan, developed in consultation with local educational agencies, teachers, pupil services personnel, administrators, other staff, and parents, that satisfies the requirements of this section and that is coordinated with other programs under this Act, the Goals 2000: Educate America Act, and other Acts, as appropriate, consistent with section 14306.

"(2) CONSOLIDATION PLAN.—A State plan submitted under paragraph (1) may be submitted as part of a consolidation plan under section 14302.

##### "(b) STANDARDS AND ASSESSMENTS.—

"(1) CHALLENGING STANDARDS.—(A) Each State plan shall demonstrate that the State has developed or adopted challenging content standards and challenging student performance standards that will be used by the State, its local educational agencies, and its schools to carry out this part, except that a State shall not be required to submit such standards to the Secretary.

"(B) If a State has State content standards or State student performance standards developed under title III of the Goals 2000: Educate America Act and an aligned set of assessments for all students developed under such title, or, if not developed under such title, adopted under another process, the State shall use such standards and assessments, modified, if necessary, to conform with the requirements of subparagraphs (A) and (D) of this paragraph, and paragraphs (2) and (3).

"(C) If a State has not adopted State content standards and State student performance standards for all students, the State plan shall include a strategy and schedule for developing State content standards and State student performance standards for elementary and secondary school children served under this part in subjects as determined by the State, but including at least mathematics and reading or language arts by the end of the one-year period described in paragraph (6), which standards shall

include the same knowledge, skills, and levels of performance expected of all children.

"(D) Standards under this paragraph shall include—

"(i) challenging content standards in academic subjects that—

"(I) specify what children are expected to know and be able to do;

"(II) contain coherent and rigorous content; and

"(III) encourage the teaching of advanced skills;

"(ii) challenging student performance standards that—

"(I) are aligned with the State's content standards;

"(II) describe two levels of high performance, proficient and advanced, that determine how well children are mastering the material in the State content standards; and

"(III) describe a third level of performance, partially proficient, to provide complete information about the progress of the lower performing children toward achieving to the proficient and advanced levels of performance.

"(E) For the subjects in which students will be served under this part, but for which a State is not required by subparagraphs (A), (B) and (C) to develop, and has not otherwise developed such standards, the State plan shall describe a strategy for ensuring that such students are taught the same knowledge and skills and held to the same expectations as are all children.

##### "(2) YEARLY PROGRESS.—

"(A) Each State plan shall demonstrate, based on assessments described under paragraph (3), what constitutes adequate yearly progress of—

"(i) any school served under this part toward enabling children to meet the State's student performance standards; and

"(ii) any local educational agency that received funds under this part toward enabling children in schools receiving assistance under this part to meet the State's student performance standards.

"(B) Adequate yearly progress shall be defined in a manner—

"(i) that is consistent with guidelines established by the Secretary that result in continuous and substantial yearly improvement of each local educational agency and school sufficient to achieve the goal of all children served under this part meeting the State's proficient and advanced levels of performance, particularly economically disadvantaged and limited English proficient children; and

"(ii) that links progress primarily to performance on the assessments carried out under this section while permitting progress to be established in part through the use of other measures.

"(3) ASSESSMENTS.—Each State plan shall demonstrate that the State has developed or adopted a set of high-quality, yearly student assessments, including assessments in at least mathematics and reading or language arts, that will be used as the primary means of determining the yearly performance of each local educational agency and school served under this part in enabling all children served under this part to meet the State's student performance standards. Such assessments shall—

"(A) be the same assessments used to measure the performance of all children, if the State measures the performance of all children;

"(B) be aligned with the State's challenging content and student performance standards and provide coherent information about student attainment of such standards;

"(C) be used for purposes for which such assessments are valid and reliable, and be consistent with relevant, nationally recognized professional and technical standards for such assessments;

"(D) measure the proficiency of students in the academic subjects in which a State has adopted challenging content and student performance standards and be administered at some time during—

"(i) grades 3 through 5;

"(ii) grades 6 through 9; and

"(iii) grades 10 through 12;

"(E) involve multiple up-to-date measures of student performance, including measures that assess higher order thinking skills and understanding;

"(F) provide for—

"(i) the participation in such assessments of all students;

"(ii) the reasonable adaptations and accommodations for students with diverse learning needs, necessary to measure the achievement of such students relative to State content standards; and

"(iii) the inclusion of limited English proficient students who shall be assessed, to the extent practicable, in the language and form most likely to yield accurate and reliable information on what such students know and can do, to determine such students' mastery of skills in subjects other than English;

"(G) include students who have attended schools in a local educational agency for a full academic year but have not attended a single school for a full academic year, however the performance of students who have attended more than one school in the local educational agency in any academic year shall be used only in determining the progress of the local educational agency;

"(H) provide individual student interpretive and descriptive reports, which shall include scores, or other information on the attainment of student performance standards; and

"(I) enable results to be disaggregated within each State, local educational agency, and school by gender, by each major racial and ethnic group, by English proficiency status, by migrant status, by students with disabilities as compared to nondisabled students, and by economically disadvantaged students as compared to students who are not economically disadvantaged.

"(4) SPECIAL RULE.—Assessment measures that do not meet the requirements of paragraph (3)(C) may be included as one of the multiple measures, if a State includes in the State plan information regarding the State's efforts to validate such measures.

"(5) LANGUAGE ASSESSMENTS.—Each State plan shall identify the languages other than English that are present in the participating student population and indicate the languages for which yearly student assessments are not available and are needed. The State shall make every effort to develop such assessments and may request assistance from the Secretary if linguistically accessible assessment measures are needed. Upon request, the Secretary shall assist with the identification of appropriate assessment measures in the needed languages through the Office of Bilingual Education and Minority Languages Affairs.

"(6) STANDARD AND ASSESSMENT DEVELOPMENT.—(A) A State that does not have challenging State content standards and challenging State student performance standards, in at least mathematics and reading or language arts, shall develop such standards within one year of receiving funds under this part after the first fiscal year for which such State receives such funds after the date of enactment of the Improving America's Schools Act of 1994.

"(B) A State that does not have assessments that meet the requirements of paragraph (3) in at least mathematics and reading or language arts shall develop and test such assessments within four years (one year of which shall be

used for field testing such assessment), of receiving funds under this part after the first fiscal year for which such State receives such funds after the date of enactment of the Improving America's Schools Act of 1994 and shall develop benchmarks of progress toward the development of such assessments that meet the requirements of paragraph (3), including periodic updates.

"(C) The Secretary may extend for one additional year the time for testing new assessments under subparagraph (B) upon the request of the State and the submission of a strategy to correct problems identified in the field testing of such new assessments.

"(D) If, after the one-year period described in subparagraph (A), a State does not have challenging State content and challenging student performance standards in at least mathematics and reading or language arts, a State shall adopt a set of standards in these subjects such as the standards and assessments contained in other State plans the Secretary has approved.

"(E) If, after the four-year period described in subparagraph (B), a State does not have assessments, in at least mathematics and reading or language arts, that meet the requirement of paragraph (3), and is denied an extension under subparagraph (C), a State shall adopt an assessment that meets the requirement of paragraph (3) such as one contained in other State plans the Secretary has approved.

"(7) TRANSITIONAL ASSESSMENTS.—(A) If a State does not have assessments that meet the requirements of paragraph (3) and proposes to develop such assessments under paragraph (6)(B), the State may propose to use a transitional set of yearly statewide assessments that will assess the performance of complex skills and challenging subject matter.

"(B) For any year in which a State uses transitional assessments, the State shall devise a procedure for identifying local educational agencies under paragraphs (3) and (7) of section 1116(d), and schools under paragraphs (1) and (7) of section 1116(c), that rely on accurate information about the academic progress of each such local educational agency and school.

"(8) REQUIREMENT.—Each State plan shall describe—

"(A) how the State educational agency will help each local educational agency and school affected by the State plan develop the capacity to comply with each of the requirements of sections 1112(c)(1)(D), 1114(b), and 1115(c) that is applicable to such agency or school; and

"(B) such other factors the State deems appropriate (which may include opportunity-to-learn standards or strategies developed under the Goals 2000: Educate America Act) to provide students an opportunity to achieve the knowledge and skills described in the challenging content standards adopted by the State.

"(c) OTHER PROVISIONS TO SUPPORT TEACHING AND LEARNING.—Each State plan shall contain assurances that—

"(1)(A) the State educational agency will implement a system of school support teams under section 1117(c), including provision of necessary professional development for those teams;

"(B) the State educational agency will work with other agencies, including educational service agencies or other local consortia, and institutions to provide technical assistance to local educational agencies and schools to carry out the State educational agency's responsibilities under this part, including technical assistance in providing professional development under section 1119 and technical assistance under section 1117; and

"(C)(i) where educational service agencies exist, the State educational agency will consider providing professional development and technical assistance through such agencies; and

"(ii) where educational service agencies do not exist, the State educational agency will con-

sider providing professional development and technical assistance through other cooperative agreements such as through a consortium of local educational agencies;

"(2) the State educational agency will notify local educational agencies and the public of the standards and assessments developed under this section, and of the authority to operate schoolwide programs, and will fulfill the State educational agency's responsibilities regarding local educational agency improvement and school improvement under section 1116, including such corrective actions as are necessary;

"(3) the State educational agency will provide the least restrictive and burdensome regulations for local educational agencies and individual schools participating in a program assisted under this part;

"(4) the State educational agency will encourage the use of funds from other Federal, State, and local sources for schoolwide reform in schoolwide programs under section 1114;

"(5) the Committee of Practitioners established under section 1603(b) will be substantially involved in the development of the plan and will continue to be involved in monitoring the plan's implementation by the State; and

"(6) the State will coordinate activities funded under this part with school-to-work, vocational education, cooperative education and mentoring programs, and apprenticeship programs involving business, labor, and industry, as appropriate.

"(d) PEER REVIEW AND SECRETARIAL APPROVAL.—

"(1) IN GENERAL.—The Secretary shall—

"(A) establish a peer review process to assist in the review and recommendations for revision of State plans;

"(B) appoint individuals to the peer review process who are representative of State educational agencies, local educational agencies, teachers, and parents;

"(C) following an initial peer review, approve a State plan the Secretary determines meets the requirements of subsections (a), (b), and (c); and

"(D) if the Secretary determines that the State plan does not meet the requirements of subsection (a), (b), or (c), immediately notify the State of such determination and the reasons for such determination;

"(E) not decline to approve a State's plan before—

"(i) offering the State an opportunity to revise its plan;

"(ii) providing technical assistance in order to assist the State to meet the requirements under subsections (a), (b), and (c); and

"(iii) providing a hearing; and

"(F) have the authority to disapprove a State plan for not meeting the requirements of this part, but shall not have the authority to require a State, as a condition of approval of the State plan, to include in, or delete from, such plan one or more specific elements of the State's content standards or to use specific assessment instruments or items.

"(2) WITHHOLDING.—The Secretary may withhold funds for State administration and activities under section 1117 until the Secretary determines that the State plan meets the requirements of this section.

"(e) DURATION OF THE PLAN.—

"(1) IN GENERAL.—Each State plan shall—

"(A) remain in effect for the duration of the State's participation under this part; and

"(B) be periodically reviewed and revised by the State, as necessary, to reflect changes in the State's strategies and programs under this part.

"(2) ADDITIONAL INFORMATION.—If the State makes significant changes in its plan, such as the adoption of new State content standards and State student performance standards, new assessments, or a new definition of adequate

progress, the State shall submit such information to the Secretary.

"(f) LIMITATION ON CONDITIONS.—Nothing in this part shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's specific instructional content or student performance standards and assessments, opportunity-to-learn standards or strategies, curriculum, or program of instruction, as a condition of eligibility to receive funds under this part.

"(g) PROHIBITION.—Nothing in this Act shall be construed to require any State educational agency, local educational agency, or school, to implement opportunity-to-learn standards or strategies developed by such State under the Goals 2000: Educate America Act.

"(h) SPECIAL RULE.—If the aggregate State expenditure by a State educational agency for the operation of elementary and secondary education programs in the State is less than such agency's aggregate Federal expenditure for the State operation of all Federal elementary and secondary education programs, then the State plan shall include assurances and specific provisions that such State will provide State expenditures for the operation of elementary and secondary education programs equal to or exceeding the level of Federal expenditures for such operation by October 1, 1998.

"SEC. 1112. LOCAL EDUCATIONAL AGENCY PLANS.

"(a) PLANS REQUIRED.—

"(1) SUBGRANTS.—A local educational agency may receive a subgrant under this part for any fiscal year only if such agency has on file with the State educational agency a plan, approved by the State educational agency, that is coordinated with other programs under this Act, the Goals 2000: Educate America Act, and other Acts, as appropriate, as specified in section 14306.

"(2) CONSOLIDATED APPLICATION.—The plan may be submitted as part of a consolidated application under section 14304.

"(b) PLAN PROVISIONS.—Each local educational agency plan shall include—

"(1) a description of additional high-quality student assessments, if any, other than the assessments described in the State plan under section 1111, that the local educational agency and schools served under this part will use to—

"(A) determine the success of children served under this part in meeting the State's student performance standards and provide information to teachers, parents, and students on the progress being made toward meeting the State student performance standards described in section 1111(b)(1)(D)(ii);

"(B) assist in diagnosis, teaching, and learning in the classroom in ways that best enable children served under this part to meet State standards and do well in the local curriculum; and

"(C) determine what revisions are needed to projects under this part so that such children will meet the State's student performance standards;

"(2) at the local educational agency's discretion, a description of any other indicators that will be used in addition to the assessments described in paragraph (1) for the uses described in such paragraph;

"(3) a description of the strategy the local educational agency will use to provide professional development for teachers, and, where appropriate, pupil services personnel, administrators, parents and other staff, including local educational agency level staff in accordance with section 1119;

"(4) a description of how the local educational agency will coordinate and integrate services provided under this part with other educational services at the local educational agency or individual school level, such as—

"(A) Even Start, Head Start, and other preschool programs, including plans for the transition of participants in such programs to local elementary school programs, vocational education programs, and school-to-work transition programs; and

"(B) services for children with limited English proficiency or with disabilities, migratory children served under part C or who were formerly eligible for services under part C in the two-year period preceding the date of the enactment of the Improving America's School Act of 1994, neglected or delinquent youth and youth at risk of dropping out served under part D, homeless children, and immigrant children in order to increase program effectiveness, eliminate duplication, and reduce fragmentation of the instructional program;

"(5) a description of the poverty criteria that will be used to select school attendance areas under section 1113;

"(6) a description of how teachers, in consultation with parents, administrators, and pupil services personnel, in targeted assistance schools under section 1115, will identify the eligible children most in need of services under this part;

"(7) a general description of the nature of the programs to be conducted by such agency's schools under sections 1114 and 1115 and, where appropriate, educational services outside such schools for children living in local institutions for neglected or delinquent children, for neglected and delinquent children in community day school programs, and for eligible homeless children;

"(8) a description of how the local educational agency will ensure that migratory children and formerly migratory children who are eligible to receive services under this part are selected to receive such services on the same basis as other children who are selected to receive services under this part;

"(9) where appropriate, a description of how the local educational agency will use funds under this part to support preschool programs for children, particularly children participating in a Head Start or Even Start program, which services may be provided directly by the local educational agency or through a subcontract with the local Head Start agency designated by the Secretary of Health and Human Services under section 641 of the Head Start Act, agencies operating Even Start programs, or another comparable public early childhood development program.

"(c) ASSURANCES.—

"(1) IN GENERAL.—Each local educational agency plan shall provide assurances that the local educational agency will—

"(A) inform eligible schools and parents of schoolwide project authority;

"(B) provide technical assistance and support to schoolwide programs;

"(C) work in consultation with schools as the schools develop the schools' plans pursuant to section 1114 and assist schools as the schools implement such plans or undertake activities pursuant to section 1115 so that each school can make adequate yearly progress toward meeting the State content standards and State student performance standards;

"(D) fulfill such agency's school improvement responsibilities under section 1116, including taking corrective actions under section 1116(c)(4);

"(E) coordinate and collaborate, to the extent feasible and necessary as determined by the local educational agency, with other agencies providing services to children, youth, and families, including health and social services;

"(F) provide services to eligible children attending private elementary and secondary schools in accordance with section 1120, and

timely and meaningful consultation with private school officials regarding such services;

"(G) take into account the experience of model programs for the educationally disadvantaged, and the findings of relevant research indicating that services may be most effective if focused on students in the earliest grades at schools that receive funds under this part; and

"(H) beginning in fiscal year 1997 and in the case that a local educational agency chooses to use funds under this part to provide early childhood development services to low-income children below the age of compulsory school attendance, ensure that such services comply with the performance standards established under section 641A(a) of the Head Start Act or under section 651 of such Act, as such section 651 was in effect on the day preceding the date of enactment of the Human Services Amendments of 1994.

"(2) SPECIAL RULE.—In carrying out subparagraph (H) of paragraph (1) the Secretary—

"(A) in fiscal year 1995, shall consult with the Secretary of Health and Human Services on the implementation of such subparagraph and shall establish procedures (taking into consideration existing State and local laws, and local teacher contracts) to assist local educational agencies to comply with such subparagraph; and

"(B) in fiscal year 1996, shall disseminate to local educational agencies the Head Start Performance Standards revised pursuant to section 641A(a) of the Head Start Act, and such agencies effected by such subparagraph shall plan for the implementation of such subparagraph (taking into consideration existing State and local laws, and local teacher contracts), including pursuing the availability of other Federal, State, and local funding sources to assist in compliance with such subparagraph.

"(3) INAPPLICABILITY.—The provisions of this subsection shall not apply to preschool programs using the Even Start model or to Even Start programs which are expanded through the use of funds under this part.

"(d) PLAN DEVELOPMENT AND DURATION.—Each local educational agency plan shall—

"(1) be developed in consultation with teachers, including vocational teachers, and pupil services personnel, where appropriate, and parents of children in schools served under this part; and

"(2)(A) remain in effect for the duration of the local educational agency's participation under this part; and

"(B) periodically be reviewed and revised, as necessary, to reflect changes in the local educational agency's strategies and programs.

"(e) STATE APPROVAL.—

"(1) IN GENERAL.—Each local educational agency plan shall be filed according to a schedule established by the State educational agency, except that a local educational agency shall have not more than one year after the date of enactment of the Improving America's Schools Act of 1994 to have such plan provisionally approved by the State educational agency and not more than two years after the date of enactment of such Act to have such plan finally approved by the State educational agency.

"(2) APPROVAL.—The State educational agency shall approve a local educational agency's plan only if the State educational agency determines that the local educational agency's plan will enable schools served under this part to substantially help all children served under this part meet the standards expected of all children described in section 1111(b)(1).

"(3) REVIEW.—The State educational agency shall review the local educational agency's plan to determine if such agency's professional development activities are in accordance with section 1119.

"(f) PROGRAM RESPONSIBILITY.—The local educational agency plan shall reflect the shared

responsibility of schools, teachers, and the local educational agency in making decisions regarding activities under sections 1114 and 1115.

"SEC. 1113. ELIGIBLE SCHOOL ATTENDANCE AREAS.

"(a) DETERMINATION.—

"(1) IN GENERAL.—A local educational agency shall use funds received under this part only in eligible school attendance areas.

"(2) ELIGIBLE SCHOOL ATTENDANCE AREAS.—For the purposes of this part—

"(A) the term 'school attendance area' means, in relation to a particular school, the geographical area in which the children who are normally served by that school reside; and

"(B) the term 'eligible school attendance area' means a school attendance area in which the percentage of children from low-income families is at least as high as the percentage of children from low-income families in the local educational agency as a whole.

"(3) RANKING ORDER.—If funds allocated in accordance with subsection (c) are insufficient to serve all eligible school attendance areas, a local educational agency shall—

"(A) annually rank, without regard to grade spans, such agency's eligible school attendance areas in which the concentration of children from low-income families exceeds 75 percent from highest to lowest according to the percentage of children from low-income families; and

"(B) serve such eligible school attendance areas in rank order.

"(4) REMAINING FUNDS.—If funds remain after serving all eligible school attendance areas under paragraph (3), a local educational agency shall—

"(A) annually rank such agency's remaining eligible school attendance areas from highest to lowest either by grade span or for the entire local educational agency according to the percentage of children from low-income families; and

"(B) serve such eligible school attendance areas in rank order either within each grade-span grouping or within the local educational agency as a whole.

"(5) MEASURES.—The local educational agency shall use the same measure of poverty, which measure shall be the number of children ages 5 through 17 in poverty counted in the most recent census data approved by the Secretary, the number of children eligible for free and reduced priced lunches under the National School Lunch Act, the number of children in families receiving assistance under the Aid to Families with Dependent Children program, or the number of children eligible to receive medical assistance under the Medicaid program, or a composite of such indicators, with respect to all school attendance areas in the local educational agency—

"(A) to identify eligible school attendance areas;

"(B) to determine the ranking of each area; and

"(C) to determine allocations under subsection (c).

"(6) EXCEPTION.—This subsection shall not apply to a local educational agency with a total enrollment of less than 1,000 children.

"(7) WAIVER FOR DESEGREGATION PLANS.—The Secretary may approve a local educational agency's written request for a waiver of the requirements of subsections (a) and (c), and permit such agency to treat as eligible, and serve, any school that children attend with a State-ordered or a court-ordered school desegregation plan or a plan that continues to be implemented in accordance with State-ordered or court-ordered desegregation plan, if (A) the number of economically disadvantaged children enrolled in the school is at least 25 percent of the school's total enrollment; and (B) the Secretary determines on the basis of a written request from

such agency and in accordance with such criteria as the Secretary establishes, that approval of that request would further the purposes of this pact.

“(b) LOCAL EDUCATIONAL AGENCY DISCRETION.—

“(1) IN GENERAL.—Notwithstanding subsection (a)(2), a local educational agency may—

“(A) designate as eligible any school attendance area or school in which at least 35 percent of the children are from low-income families;

“(B) use funds received under this part in a school that is not in an eligible school attendance area, if the percentage of children from low-income families enrolled in the school is equal to or greater than the percentage of such children in a participating school attendance area of such agency;

“(C)(i) elect not to serve an eligible school attendance area or eligible school that has a higher percentage of children from low-income families if—

“(I) the school meets the comparability requirements of section 1120A(c);

“(II) the school is receiving supplemental funds from other State or local sources that are spent according to the requirements of section 1114 or 1115; and

“(III) the funds expended from such other sources equal or exceed the amount that would be provided under this part.

“(2) SPECIAL RULE.—Notwithstanding paragraph (1)(C), the number of children attending private elementary and secondary schools who are to receive services, and the assistance such children are to receive under this part, shall be determined without regard to whether the public school attendance area in which such children reside is assisted under paragraph (1).

“(c) ALLOCATIONS.—

“(1) IN GENERAL.—A local educational agency shall allocate funds received under this part to eligible school attendance areas or eligible schools, identified under subsection (a) or (b), in rank order, on the basis of the total number of children from low-income families in each area or school.

“(2) SPECIAL RULE.—(A) Except as provided in subparagraph (B), the per pupil amount of funds allocated to each school attendance area or school under paragraph (1) shall be at least 125 percent of the per pupil amount of funds a local educational agency received for that year under the poverty criteria described by the local educational agency in the plan submitted under section 1112, except that this paragraph shall not apply to a local educational agency that only serves schools in which the percentage of such children is 35 percent or greater.

“(B) A local educational agency may reduce the amount of funds allocated under subparagraph (A) for a school attendance area or school by the amount of any supplemental State and local funds expended in that school attendance area or school for programs that meet the requirements of section 1114 or 1115.

“(3) RESERVATION.—A local educational agency shall reserve such funds as are necessary under this part to provide services comparable to those provided to children in schools funded under this part to serve—

“(A) where appropriate, eligible homeless children who do not attend participating schools, including providing educationally related support services to children in shelters;

“(B) children in local institutions for neglected or delinquent children; and

“(C) where appropriate, neglected and delinquent children in community day school programs.

“SEC. 1114. SCHOOLWIDE PROGRAMS.

“(a) USE OF FUNDS FOR SCHOOLWIDE PROGRAMS.—

“(1) IN GENERAL.—A local educational agency may use funds under this part, in combination

with other Federal, State, and local funds, in order to upgrade the entire educational program in a school described in subparagraph (A) or (B) if, for the initial year of the schoolwide program, the school meets either of the following criteria:

“(A) For the school year 1995–1996—

“(i) the school serves an eligible school attendance area in which not less than 60 percent of the children are from low-income families; or

“(ii) not less than 60 percent of the children enrolled in the school are from such families.

“(B) For the school year 1996–1997 and subsequent years—

“(i) the school serves an eligible school attendance area in which not less than 50 percent of the children are from low-income families; or

“(ii) not less than 50 percent of the children enrolled in the school are from such families.

“(2) STATE ASSURANCES.—(A) A local educational agency may start new schoolwide programs under this section only after the State educational agency provides written information to each local educational agency in the State that demonstrates that such State agency has established the statewide system of support and improvement required by subsections (c)(1) and (e) of section 1117.

“(B) A school that desires to initiate a schoolwide program under this section prior to the establishment of the statewide system of support and improvement required in subsections (c)(1) and (e) of section 1117 shall demonstrate to the local educational agency that such school has received high quality technical assistance and support from other providers of assistance such as comprehensive technical assistance centers, regional laboratories, institutions of higher education, educational service agencies, or other local consortia.

“(3) IDENTIFICATION.—(A) No school participating in a schoolwide program shall be required to identify particular children under this part as eligible to participate in a schoolwide program or to provide supplemental services to such children.

“(B) A school participating in a schoolwide program shall use funds available to carry out this section only to supplement the amount of funds that would, in the absence of funds under this part, be made available from non-Federal sources for the school, including funds needed to provide services that are required by law for children with disabilities and children with limited English proficiency.

“(4) SPECIAL RULE.—(A) Except as provided in subsection (b), the Secretary may, through publication of a notice in the Federal Register, exempt schoolwide programs under this section from statutory or regulatory provisions of any other noncompetitive, formula grant program administered by the Secretary, or any discretionary grant program administered by the Secretary (other than formula or discretionary grant programs under the Individuals with Disabilities Education Act), to support schoolwide programs, if the intent and purposes of such other programs are met.

“(B) A school that chooses to use funds from such other programs shall not be relieved of the requirements relating to health, safety, civil rights, gender equity, student and parental participation and involvement, services to private school children, maintenance of effort, comparability of services, uses of Federal funds to supplement, not supplant non-Federal funds, or the distribution of funds to State or local educational agencies that apply to the receipt of funds from such programs.

“(5) PROFESSIONAL DEVELOPMENT.—Each school receiving funds under this part for any fiscal year shall devote sufficient resources to effectively carry out the activities described in subsection (b)(1)(D) in accordance with section

1119 for such fiscal year, except that a school may enter into a consortium with another school to carry out such activities.

“(b) COMPONENTS OF A SCHOOLWIDE PROGRAM.—

“(1) IN GENERAL.—A schoolwide program shall include the following components:

“(A) A comprehensive needs assessment of the entire school that is based on information on the performance of children in relation to the State content standards and the State student performance standards described in section 1111(b)(1).

“(B) Schoolwide reform strategies that—

“(i) provide opportunities for all children to meet the State's proficient and advanced levels of student performance described in section 1111(b)(1)(D);

“(ii) are based on effective means of improving the achievement of children;

“(iii) use effective instructional strategies, which may include the integration of vocational and academic learning (including applied learning and team teaching strategies), that—

“(I) increase the amount and quality of learning time, such as providing an extended school year and before- and after-school and summer programs and opportunities, and help provide an enriched and accelerated curriculum; and

“(II) include strategies for meeting the educational needs of historically underserved populations, including girls and women;

“(iv)(I) address the needs of all children in the school, but particularly the needs of children who are members of the target population of any program that is included in the schoolwide program, which may include—

“(aa) counseling, pupil services, and mentoring services;

“(bb) college and career awareness and preparation, such as college and career guidance, comprehensive career development, occupational information, enhancement of employability skills and occupational skills, personal finance education, job placement services, and innovative teaching methods which may include applied learning and team teaching strategies;

“(cc) services to prepare students for the transition from school to work, including the formation of partnerships between elementary, middle, and secondary schools and local businesses, and the integration of school-based and work-based learning; and

“(dd) incorporation of gender-equitable methods and practices; and

“(II) address how the school will determine if such needs have been met; and

“(vi) are consistent with, and are designed to implement, the State and local improvement plans, if any, approved under title III of the Goals 2000: Educate America Act.

“(C) Instruction by highly qualified professional staff.

“(D) In accordance with section 1119 and subsection (a)(5), professional development for teachers and aides, and, where appropriate, pupil services personnel, parents, principals, and other staff to enable all children in the school to meet the State's student performance standards.

“(E) Strategies to increase parental involvement, such as family literacy services.

“(F) Plans for assisting preschool children in the transition from early childhood programs, such as Head Start, Even Start, or a State-run preschool program, to local elementary school programs.

“(G) Measures to include teachers in the decisions regarding the use of assessments described in section 1112(b)(1) in order to provide information on, and to improve, the performance of individual students and the overall instructional program.

“(H) Activities to ensure that students who experience difficulty mastering any of the

standards required by section 1111(b) during the course of the school year shall be provided with effective, timely additional assistance, which shall include—

“(i) measures to ensure that students' difficulties are identified on a timely basis and to provide sufficient information on which to base effective assistance;

“(ii) to the extent the school determines feasible using funds under this part, periodic training for teachers in how to identify such difficulties and to provide assistance to individual students; and

“(iii) for any student who has not met such standards, teacher-parent conferences, at which time the teacher and parents shall discuss—

“(I) what the school will do to help the student meet such standards;

“(II) what the parents can do to help the student improve the student's performance; and

“(III) additional assistance which may be available to the student at the school or elsewhere in the community.

“(2) PLAN.—(A) Any eligible school that desires to operate a schoolwide program shall first develop (or amend a plan for such a program that was in existence before the date of enactment of the Improving America's Schools Act of 1994), in consultation with the local educational agency and its school support team or other technical assistance provider under subsections (c)(1) and (e) of section 1117, a comprehensive plan for reforming the total instructional program in the school that—

“(i) incorporates the components described in paragraph (1);

“(ii) describes how the school will use resources under this part and from other sources to implement those components;

“(iii) includes a list of State and local educational agency programs and other Federal programs under subsection (a)(4) that will be included in the schoolwide program;

“(iv) describes how the school will provide individual student assessment results, including an interpretation of those results, to the parents of a child who participates in the assessment required by section 1111(b)(3);

“(v) provides for the collection of data on the achievement and assessment results of students disaggregated by gender, major ethnic or racial groups, limited English proficiency status, migrant students, and by children with disabilities as compared to other students, and by economically disadvantaged students as compared to students who are not economically disadvantaged;

“(vi) seeks to produce statistically sound results for each category for which assessment results are disaggregated through the use of oversampling or other means; and

“(vii) provides for the public reporting of disaggregated data only when such reporting is statistically sound.

“(B) Plans developed before a State has adopted standards and a set of assessments that meet the criteria in paragraphs (1) and (3) of section 1111(b) shall be based on an analysis of available data on the achievement of students in the school and effective instructional and school improvement practices.

“(C) The comprehensive plan shall be—

“(i) developed during a one-year period, unless—

“(I) the local educational agency, after considering the recommendation of the technical assistance providers under subsections (c) and (e) of section 1117, determines that less time is needed to develop and implement the schoolwide program; or

“(II) the school is operating a schoolwide program on the day preceding the date of enactment of the Improving America's Schools Act of 1994, in which case such school may continue to

operate such program, but shall develop a new plan during the first year of assistance under such Act to reflect the provisions of this section;

“(ii) developed with the involvement of the community to be served and individuals who will carry out such plan, including teachers, principals, other staff, and, where appropriate, pupil services personnel, and parents, and, if the plan relates to a secondary school, students from such school;

“(iii) in effect for the duration of the school's participation under this part and reviewed and revised, as necessary, by the school;

“(iv) available to the local educational agency, parents, and the public, and the information contained in such plan shall be translated, to the extent feasible, into any language that a significant percentage of the parents of participating children in the school speak as their primary language; and

“(v) where appropriate, developed in coordination with programs under the School-to-Work Opportunities Act of 1994, the Carl D. Perkins Vocational and Applied Technology Education Act, and the National and Community Service Act of 1990.

“(c) ACCOUNTABILITY.—A schoolwide program under this section shall be subject to the school improvement provisions of section 1116.

#### “SEC. 1115. TARGETED ASSISTANCE SCHOOLS.

“(a) IN GENERAL.—In all schools selected to receive funds under section 1113(c) that are ineligible for a schoolwide program under section 1114, or that choose not to operate such a schoolwide program, a local educational agency may use funds received under this part only for programs that provide services to eligible children under subsection (b) identified as having the greatest need for special assistance.

“(b) ELIGIBLE CHILDREN.—

“(1) ELIGIBLE POPULATION.—(A) The eligible population for services under this part is—

“(i) children not older than age 21 who are entitled to a free public education through grade 12; and

“(ii) children who are not yet at a grade level where the local educational agency provides a free public education, yet are of an age at which such children can benefit from an organized instructional program provided in a school or other educational setting.

“(B) From the population described in subparagraph (A), eligible children are children identified by the school as failing, or most at risk of failing, to meet the State's challenging student performance standards on the basis of multiple, educationally related, objective criteria established by the local educational agency and supplemented by the school, except that children from preschool through grade two shall be selected solely on the basis of such criteria as teacher judgment, interviews with parents, and developmentally appropriate measures.

“(2) CHILDREN INCLUDED.—(A)(i) Children who are economically disadvantaged, children with disabilities, migrant children or limited English proficient children, are eligible for services under this part on the same basis as other children selected to receive services under this part.

“(ii) Funds received under this part may not be used to provide services that are otherwise required by law to be made available to such children but may be used to coordinate or supplement such services.

“(B) A child who, at any time in the two years preceding the year for which the determination is made, participated in a Head Start or Even Start program, is eligible for services under this part.

“(C)(i) A child who, at any time in the two years preceding the year for which the determination is made, received services under the program for youth who are neglected, delin-

quent, or at risk of dropping out under part D (or its predecessor authority) may be eligible for services under this part.

“(ii) A child in a local institution for neglected or delinquent children or attending a community day program for such children may be eligible for services under this part.

“(D) A child who is homeless and attending any school in the local educational agency may be eligible for services under this part.

“(C) COMPONENTS OF A TARGETED ASSISTANCE SCHOOL PROGRAM.—

“(1) IN GENERAL.—To assist targeted assistance schools and local educational agencies to meet their responsibility to provide for all their students served under this part the opportunity to meet the State's student performance standards in subjects as determined by the State, each targeted assistance program under this section shall—

“(A) use such program's resources under this part to help participating children meet such State student performance standards expected for all children;

“(B) be based on effective means for improving achievement of children;

“(C) ensure that planning for students served under this part is incorporated into existing school planning;

“(D) use effective instructional strategies that—

“(i) give primary consideration to providing extended learning time such as an extended school year, before- and after-school, and summer, programs and opportunities;

“(ii) help provide an accelerated, high-quality curriculum, including applied learning; and

“(iii) minimize removing children from the regular classroom during regular school hours for instruction provided under this part;

“(E) coordinate with and support the regular education program, which may include—

“(i) counseling, mentoring, and other pupil services;

“(ii) college and career awareness and preparation, such as college and career guidance, comprehensive career development, occupational information, enhancement of employability skills and occupational skills, personal finance education, job placement services, and innovative teaching methods which may include applied learning and team teaching strategies;

“(iii) services to prepare students for the transition from school to work, including the formation of partnerships between elementary, middle, and secondary schools and local businesses, and the integration of school-based and work-based learning; and

“(iv) services to assist preschool children in the transition from early childhood programs to elementary school programs;

“(F) provide instruction by highly qualified staff;

“(G) in accordance with subsection (e)(3) and section 1119, provide opportunities for professional development with resources provided under this part, and from other sources to the extent feasible, for administrators and for teachers and other school staff who work with participating children in programs under this section or in the regular education program; and

“(H) provide strategies to increase parental involvement, such as family literary services.

“(2) REQUIREMENTS.—Each school conducting a program under this section shall assist participating children selected in accordance with subsection (b) to meet the State's proficient and advanced levels of performance by—

“(A) the coordination of resources provided under this part with other resources to enable the children served to meet the State content standards and State student performance standards; and

“(B) reviewing, on an ongoing basis, the progress of participating children and revising

the targeted assistance program, if necessary, to provide additional assistance to enable such children to meet the State's challenging student performance standards, such as an extended school year, before- and after-school, and summer, programs and opportunities, training for teachers regarding how to identify students that require additional assistance, and training for teachers regarding how to implement student performance standards in the classroom.

"(d) **ASSIGNMENT OF PERSONNEL.**—To promote the integration of staff supported with funds under this part and children served under this part into the regular school program and overall school planning and improvement efforts, public school personnel who are paid with funds received under this part may—

"(1) assume limited duties that are assigned to similar personnel who are not so paid, including duties beyond classroom instruction or that do not benefit participating children, so long as the amount of time spent on such duties is the same proportion of total work time as prevails with respect to similar personnel at the same school;

"(2) participate in general professional development and school planning activities; and

"(3) collaboratively teach with regular classroom teachers, if such collaborative teaching directly benefits participating children.

"(e) **SPECIAL RULES.**—

"(1) **SIMULTANEOUS SERVICE.**—Nothing in this section shall be construed to prohibit a school from serving students served under this section simultaneously with students with similar educational needs, in the same educational settings where appropriate.

"(2) **COMPREHENSIVE SERVICES.**—If health, nutrition, and other social services are not otherwise available to eligible children in a targeted assistance school and such school, if appropriate, has engaged in a comprehensive needs assessment and established a collaborative partnership with local service providers, and if funds are not reasonably available from other public or private sources to provide services under this part, then a portion of the funds provided under this part may be used as a last resort to provide such services, including—

"(A) the provision of basic medical equipment, such as eyeglasses and hearing aids;

"(B) compensation of a coordinator; and

"(C) professional development necessary to assist teachers, pupil services personnel, other staff, and parents in identifying and meeting the comprehensive needs of eligible children.

"(3) **PROFESSIONAL DEVELOPMENT.**—Each school receiving funds under this part for any fiscal year shall devote sufficient resources to effectively carry out the professional development activities described in subparagraph (G) of subsection (c)(1) in accordance with section 1119, for such fiscal year, except that a school may enter into a consortium with another school to carry out such activities.

"**SEC. 1115A. SCHOOL CHOICE.**

"(a) **CHOICE PROGRAMS.**—A local educational agency may use funds under this part, in combination with State, local, and private funds, to develop and implement choice programs, for children eligible for assistance under this part, which permit parents to select the public school that their children will attend.

"(b) **CHOICE PLAN.**—A local educational agency that chooses to implement a school choice plan shall first develop a comprehensive plan that includes assurances that—

"(1) all eligible students across grade levels will have equal access to the program;

"(2) the program does not include schools which follow a racially discriminatory policy;

"(3) describe how the school will use resources under this part and from other sources to implement the plan;

"(4) describe how the school will provide individual student assessment results, including an

interpretation of such results, to the parents of a child who participates in the assessment required by section 1111(b)(3);

"(5) the plan will be developed with the involvement of the community to be served and individuals who will carry out the plan, including teachers, principals, and other staff, parents, and, if the plan relates to a secondary school, students from the school;

"(6) the plan will be made available to parents and the public;

"(7) the program will not include schools that do not receive funds under this part;

"(8) the program will not use funds under this part to pay for transportation costs;

"(9) both the sending and receiving schools agree to the student transfer; and

"(10) such local educational agency will comply with the other requirements of this part.

"**SEC. 1116. ASSESSMENT AND LOCAL EDUCATIONAL AGENCY AND SCHOOL IMPROVEMENT.**

"(a) **LOCAL REVIEW.**—Each local educational agency receiving funds under this part shall—

"(1) use the State assessments described in the State plan;

"(2) use any additional measures or indicators described in the local educational agency's plan to review annually the progress of each school served under this part to determine whether the school is meeting, or making adequate progress as defined in section 1111(b)(2)(A)(i) toward enabling its students to meet the State's student performance standards described in the State plan;

"(3) publicize and disseminate to teachers and other staff, parents, students, and the community, the results of the annual review under paragraph (2) of all schools served under this part in individual school performance profiles that include statistically sound disaggregated results as required by section 1111(b)(3)(I); and

"(4) provide the results of the local annual review to schools so that the schools can continually refine the program of instruction to help all children served under this part in those schools meet the State's student performance standards.

"(b) **DESIGNATION OF DISTINGUISHED SCHOOLS.**—Each State educational agency and local educational agency receiving funds under this part shall designate distinguished schools in accordance with section 1117.

"(c) **SCHOOL IMPROVEMENT.**—

"(1) **IN GENERAL.**—A local educational agency shall identify for school improvement any school served under this part that—

"(A) has been in program improvement under section 1020 of the Elementary and Secondary Education Act of 1965 (as such section was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994), for at least two consecutive school years prior to such day;

"(B) has not made adequate progress as defined in the State's plan under section 1111(b)(2)(A)(i) for two consecutive school years, except that—

"(i) this subparagraph shall not apply to a school if almost every student in such school is meeting the State's advanced level of performance; or

"(ii) in the case of a targeted assistance school, such school may be reviewed on the progress of only those students that have been or are served under this part; or

"(C) has failed to meet the criteria established by the State through the State's transitional procedure under section 1111(b)(7)(B) for two consecutive years.

"(2) **REQUIREMENT.**—(A) Each school identified under paragraph (1) shall—

"(i) in consultation with parents, the local educational agency, and the school support

team, develop or revise a school plan in ways that have the greatest likelihood of improving the performance of participating children in meeting the State's student performance standards, which may include reviewing the schools' plan in the context of the opportunity-to-learn standards or strategies developed by such State under the Goals 2000: Educate America Act; and

"(ii) submit the plan or revised plan to the local educational agency for approval.

"(B) Before identifying a school for school improvement under paragraph (1), the local educational agency shall provide the school with an opportunity to review the school-level data, including assessment data, on which such identification is based. If the school believes that such identification for school improvement is in error for statistical or other substantive reasons, such school may provide evidence to the local educational agency to support such belief.

"(C) During the first year immediately following such identification, the school shall implement such school's plan or revised plan.

"(3) **PROFESSIONAL DEVELOPMENT.**—(A) Each school identified under paragraph (1) shall, as part of the school plan under paragraph (2), improve the skills of its staff by providing effective professional development activities. A school shall demonstrate such school's compliance with this school plan by—

"(i) devoting to such activities, over two consecutive years, an amount equivalent to at least 10 percent of the funds received by the school under this part during one fiscal year; or

"(ii) otherwise demonstrating that such school is effectively carrying out professional development activities.

"(B) A school may use funds from any source to meet the requirements of this subsection.

"(C) Decisions about how to use the funds made available under this part which the school makes available for professional development shall be made by teachers, principals, and other school staff in that school.

"(4) **TECHNICAL ASSISTANCE.**—(A) For each school identified under paragraph (1), the local educational agency shall provide technical or other assistance as the school develops and implements such school's plan or revised plan, such as a joint plan between the local educational agency and school that addresses specific elements of student performance problems and that specifies school and local educational agency responsibilities under the plan, and waivers or modifications of requirements of local educational agency policy or regulation that impede the ability of the school to educate students.

"(B) Such technical assistance may be provided directly by the local educational agency, through mechanisms authorized under section 1117, or with the local educational agency's approval, by an institution of higher education, a private nonprofit organization, an educational service agency, a comprehensive regional assistance center under part A of title XIII, or other entities with experience in helping schools improve achievement.

"(5) **CORRECTIVE ACTION.**—(A) Except as provided in subparagraph (C), after providing technical assistance pursuant to paragraph (4) and taking other remediation measures, the local educational agency may take corrective action at any time against a school that has been identified under paragraph (1), but, during the third year following identification under paragraph (1), shall take such action against any school that still fails to make adequate progress.

"(B)(i) Corrective actions are those, consistent with State and local law, determined and made public and disseminated by the local educational agency, which may include—

"(1) withholding funds;

"(II) interagency collaborative agreements between the school and other public agencies to

provide health, counseling, and other social services needed to remove barriers to learning;

"(III) revoking authority for a school to operate a schoolwide program;

"(IV) decreasing decisionmaking authority at the school level;

"(V) making alternative governance arrangements such as the creation of a public charter school;

"(VI) reconstituting the school staff;

"(VII) authorizing students to transfer, including transportation costs, to other public schools served by the local educational agency; and

"(VIII) implementing opportunity-to-learn standards or strategies developed by such State under the Goals 2000: Educate America Act.

"(ii) Notwithstanding clause (i), corrective actions taken pursuant to this part shall not include the actions described in subclauses (I), (III), (IV), (VI), or (VII) of clause (i) until the State has developed assessments that meet the requirements of subparagraph (C) of section 1111(b)(3).

"(C) Prior to implementing any corrective action, the local educational agency may refrain from such corrective action for one additional year to the extent that the failure to make progress can be attributed to extenuating circumstances as determined by the local educational agency.

"(D) A school that is no longer operating its schoolwide program due to a corrective action may not resume operation of such a program until the local educational agency determines that the school has adequately reformed its schoolwide program plan to enable the school to make adequate progress toward meeting the State's challenging student performance standards.

"(6) STATE EDUCATIONAL AGENCY RESPONSIBILITIES.—The State educational agency shall—

"(A) make technical assistance under section 1117 available to the schools farthest from meeting the State's challenging student performance standards, if requested by the school or local educational agency; and

"(B) if such agency determines that a local educational agency failed to carry out the local educational agency's responsibilities under paragraphs (4) and (5), take such corrective actions as the State educational agency deems appropriate and which are in compliance with State law.

"(7) SPECIAL RULE.—Schools that, for at least two of the three years following identification under paragraph (1), make adequate progress toward meeting the State's proficient and advanced levels of performance shall no longer need to be identified for school improvement.

"(d) STATE REVIEW AND LOCAL EDUCATIONAL AGENCY IMPROVEMENT.—

"(1) IN GENERAL.—A State educational agency shall—

"(A) annually review the progress of each local educational agency receiving funds under this part to determine whether schools receiving assistance under this part are making adequate progress as defined in section 1111(b)(2)(A)(ii) toward meeting the State's student performance standards; and

"(B) publicize and disseminate to local educational agencies, teachers and other staff, parents, students, and the community the results of the State review, including statistically sound disaggregated results, as required by section 1111(b)(3)(I).

"(2) REWARDS.—In the case of a local educational agency that for three consecutive years has met or exceeded the State's definition of adequate progress as defined in section 1111(b)(2)(A)(ii), the State may make institutional and individual rewards of the kinds described for individual schools in paragraph (2) of section 1117(c).

"(3) IDENTIFICATION.—(A) A State educational agency shall identify for improvement any local educational agency that—

"(i) for two consecutive years, is not making adequate progress as defined in section 1111(b)(2)(A)(ii) in schools served under this part toward meeting the State's student performance standards, except that schools served by the local educational agency that are operating targeted assistance programs may be reviewed on the basis of the progress of only those students served under this part; or

"(ii) has failed to meet the criteria established by the State through such State's transitional procedure under section 1111(b)(7)(B) for two consecutive years.

"(B) Before identifying a local educational agency for improvement under paragraph (1), the State educational agency shall provide the local educational agency with an opportunity to review the school-level data, including assessment data, on which such identification is based. If the local educational agency believes that such identification for improvement is in error due to statistical or other substantive reasons, such local educational agency may provide evidence to the State educational agency to support such belief.

"(4) LOCAL EDUCATIONAL AGENCY REVISIONS.—

(A) Each local educational agency identified under paragraph (3) shall, in consultation with schools, parents, and educational experts, revise its local educational agency plan under section 1112 in ways that have the greatest likelihood of improving the performance of schools served by the local educational agency under this part in meeting the State's student performance standards.

"(B) Such revision shall include determining why the local educational agency's plan failed to bring about increased achievement, and may include reviewing the local educational agency's plan in the context of the opportunity-to-learn standards or strategies developed by such State under the Goals 2000: Educate America Act.

"(5) STATE EDUCATIONAL AGENCY RESPONSIBILITY.—(A) For each local educational agency identified under paragraph (3), the State educational agency shall—

"(i) provide technical or other assistance, if requested, as authorized under section 1117, to better enable the local educational agency to—

"(I) develop and implement the local educational agency's revised plan; and

"(II) work with schools needing improvement; and

"(ii) make available to the local educational agencies farthest from meeting the State's standards, if requested, assistance under section 1117.

"(B) Technical or other assistance may be provided by the State educational agency directly, or by an institution of higher education, a private nonprofit organization, an educational service agency or other local consortium, a technical assistance center, or other entities with experience in assisting local educational agencies improve achievement, and may include—

"(i) interagency collaborative agreements between the local educational agency and other public agencies to provide health, pupil services, and other social services needed to remove barriers to learning; and

"(ii) waivers or modification of requirements of State law or regulation (in States in which such waivers are permitted) that impede the ability of a local educational agency to educate students.

"(6) CORRECTIVE ACTION.—(A) Except as provided in subparagraph (C), after providing technical assistance pursuant to paragraph (5) and taking other remediation measures, the State educational agency may take corrective action at any time against a local educational agency

that has been identified under paragraph (3), but, during the fourth year following identification under paragraph (3), shall take such action against any local educational agency that still fails to make adequate progress.

"(B)(i) Corrective actions are those actions, consistent with State law, determined and made public and disseminated by the State educational agency, which may include—

"(I) the withholding of funds;

"(II) reconstitution of school district personnel;

"(III) removal of particular schools from the jurisdiction of the local educational agency and establishment of alternative arrangements for public governance and supervision of such schools;

"(IV) implementation of the opportunity-to-learn standards or strategies developed by such State under the Goals 2000: Educate America Act;

"(V) appointment by the State educational agency of a receiver or trustee to administer the affairs of the local educational agency in place of the superintendent and school board;

"(VI) the abolition or restructuring of the local educational agency;

"(VII) the authorizing of students to transfer from a school operated by one local educational agency to a school operated by another local educational agency; and

"(VIII) a joint plan between the State and the local educational agency that addresses specific elements of student performance problems and that specifies State and local responsibilities under the plan.

"(ii) Notwithstanding clause (i), corrective actions taken pursuant to this part shall not include the actions described in subclauses (I), (II), and (III) of clause (i) until the State has developed assessments that meet the requirements of paragraph (3)(C) of section 1111(b).

"(C) Prior to implementing any corrective action, the State educational agency shall provide due process and a hearing (if State law provides for such due process and a hearing) to any local educational agency identified under paragraph (3) and may refrain from such corrective action for one year after the four-year period described in subparagraph (A) to the extent that the failure to make progress can be attributed to such extenuating circumstances as determined by the State educational agency.

"(7) SPECIAL RULE.—Local educational agencies that for at least two of the three years following identification under paragraph (3) make adequate progress toward meeting the State's standards no longer need to be identified for local educational agency improvement.

"(e) CONSTRUCTION.—Nothing in this section shall be construed to alter or otherwise affect the rights, remedies, and procedures afforded school or school district employees under Federal, State, or local laws (including applicable regulations or court orders) or under the terms of collective bargaining agreements, memoranda of understanding, or other agreements between such employees and their employers.

"SEC. 1117. STATE ASSISTANCE FOR SCHOOL SUPPORT AND IMPROVEMENT.

"(a) SYSTEM FOR SUPPORT.—

"(1) STATE SUPPORT.—Each State educational agency shall establish a statewide system of intensive and sustained support and improvement for schools receiving funds under this part, including schoolwide programs and schools in need of program improvement, in order to increase the opportunity for all students in such schools to meet the State's content standards and student performance standards.

"(2) MEETING REQUIREMENTS.—Funds reserved under section 1003(a) or appropriated under section 1002(f) shall be used to meet the requirements of this section. In addition to such funds

a State educational agency may use State administrative funds reserved under section 1603(c) to meet such requirements.

"(B) REGIONAL CENTERS.—Such a statewide system shall work with and receive support and assistance from the comprehensive regional technical assistance centers under part A of title XIII and the educational regional laboratories under section 941(h) of the Educational Research, Development, Dissemination, and Improvement Act of 1994.

"(c) PROVISIONS.—The system shall include at a minimum, the following:

"(1) SCHOOL SUPPORT TEAMS.—

"(A) Each State educational agency, in consultation with local educational agencies and schools, shall establish a system of school support teams to provide information and assistance to schoolwide programs and to assist such programs in providing an opportunity to all students to meet the State's student performance standards.

"(B) If funds are sufficient, school support teams shall provide information and assistance to—

"(i) schools—

"(I) in which the number of students in poverty is equal to or greater than 75 percent of the total number of students enrolled in such school; and

"(II) identified as in need of improvement under section 1116(c)(1); and

"(ii) other schools in need of improvement.

"(C) Each such team shall be composed of persons, including teachers, pupil services personnel, representatives of organizations knowledgeable about successful schoolwide projects or comprehensive school reform (especially distinguished educators described in paragraph (3)), and other persons who are knowledgeable about research and practice on teaching and learning, particularly about strategies for improving the educational opportunities for low achieving students (including alternative and applied learning), such as representatives of institutions of higher education, regional educational laboratories or research centers, and outside consultant groups.

"(D) A school support team shall work cooperatively with each school and make recommendations as the school develops the school's schoolwide program plan or school improvement plan, review each plan, and make recommendations to the school and the local educational agency.

"(E) During the operation of the schoolwide program or during school improvement activities, a school support team shall—

"(i) periodically review the progress of the school in enabling children in the school to meet the State's student performance standards under this part;

"(ii) identify problems in the design and operation of the instructional program; and

"(iii) make recommendations for improvement to the school and the local educational agency.

"(2) DISTINGUISHED SCHOOLS.—

"(A) Each State shall designate as a distinguished school any school served under this part which, for three consecutive years, has exceeded the State's definition of adequate progress as defined in section 1111(b)(2)(A)(i), and, any school in which—

"(i) virtually all students have met the State's advanced level of student performance; and

"(ii) equity in participation and achievement of students by sex has been achieved or significantly improved.

"(B) Schools designated under this paragraph may serve as models and provide support to other schools, especially schoolwide programs and schools in school improvement, to assist such schools in meeting the State's student performance standards.

"(C) States shall use funds reserved under section 1003(a) and funds made available under section 1002(f) to allow schools identified under this paragraph to carry out the activities described in subparagraph (B) and may use such funds to provide awards to such schools to further such school's education programs under this part, provide additional incentives for continued success, and reward individuals or groups in the school for exemplary performance.

"(D) A local educational agency may also recognize the success of a distinguished school by providing additional institutional and individual rewards, such as greater decisionmaking authority at the school building level, increased access to resources or supplemental services such as summer programs that may be used to sustain or increase success, additional professional development opportunities, opportunities to participate in special projects, and individual financial bonuses.

"(3) DISTINGUISHED EDUCATORS.—

"(A) In order to provide assistance to schools and local educational agencies identified as needing improvement and schools participating in schoolwide programs, each State, in consultation with local educational agencies and using funds reserved under section 1003(a) and made available under section 1002(f), shall establish a corps of distinguished educators.

"(B) When possible, distinguished educators shall be chosen from schools served under this part that have been especially successful in enabling children to meet or make outstanding progress toward meeting the State's student performance standards, such as the schools described in paragraph (2).

"(C) Distinguished educators shall provide, as part of the statewide system, intensive and sustained assistance to the schools and local educational agencies farthest from meeting the State's student performance standards and to schoolwide programs as such programs develop and implement their plans, including participation in the support teams described in paragraph (1).

"(d) IMPLEMENTATION.—In order to implement this section funds reserved under section 1003(a) and funds made available under section 1002(f) may be used by a State for release time for teachers and administrators, travel, training, and other related costs.

"(e) ALTERNATIVES.—The State may devise additional approaches to providing the assistance described in paragraphs (1) and (3) of subsection (c), such as providing assistance through institutions of higher education and educational service agencies or other local consortia, and the State may seek approval from the Secretary to use funds reserved under section 1003 and funds made available under section 1002(f) for such approaches as part of the State plan.

"SEC. 1118. PARENTAL INVOLVEMENT.

"(a) LOCAL EDUCATIONAL AGENCY POLICY.—

"(1) IN GENERAL.—A local educational agency may receive funds under this part only if such agency implements programs, activities, and procedures for the involvement of parents in programs assisted under this part consistent with the provisions of this section. Such activities shall be planned and implemented with meaningful consultation with parents of participating children.

"(2) WRITTEN POLICY.—Each local educational agency that receives funds under this part shall develop jointly with, agree upon with, and distribute to, parents of participating children a written parent involvement policy that is incorporated into the local educational agency's plan developed under section 1112, establishes the expectations for parent involvement, and describes how the local educational agency will—

"(A) involve parents in the joint development of the plan under section 1112, and the process

of school review and improvement under section 1116;

"(B) provide the coordination, technical assistance, and other support necessary to assist participating schools in planning and implementing effective parent involvement;

"(C) build the schools' and parents' capacity for strong parent involvement as described in subsection (e);

"(D) coordinate and integrate parental involvement strategies under this part with parental involvement strategies under other programs, such as Head Start, Even Start, the Parents as Teachers Program, the Home Instruction Program for Preschool Youngsters, and State-run preschool programs;

"(E) conduct, with the involvement of parents, an annual evaluation of the content and effectiveness of the parental involvement policy developed under this section—

"(i) to determine the effectiveness of the policy in increasing the participation of parents; and

"(ii) to identify barriers to greater participation by parents in activities authorized by this section, giving particular attention to parents who are economically disadvantaged, are disabled, have limited English proficiency, have limited literacy, or are of any racial or ethnic minority background; and

"(F) use the findings of the evaluations described in subparagraph (E) in designing strategies for school improvement and revising, if necessary, the parental involvement policies described in this subsection and subsection (b)(1).

"(3) RESERVATION.—(A) Each local educational agency shall reserve not less than 1 percent of such agency's allocation under this part to carry out this section, including family literacy and parenting skills, except that this paragraph shall not apply if 1 percent of such agency's allocation under this part (other than funds allocated under section 1002(e)) for the fiscal year for which the determination is made is \$5,000 or less.

"(B) Parents of children receiving services under this part shall be involved in the decisions regarding how funds reserved under subparagraph (A) are allotted for parental involvement activities.

"(b) SCHOOL PARENTAL INVOLVEMENT POLICY.—

"(1) IN GENERAL.—Each school served under this part shall jointly develop with, and distribute to, parents of participating children a written parental involvement policy, agreed upon by such parents, that shall describe the means for carrying out the requirements of subsections (c) through (f). Such policy shall be updated periodically to meet the changing needs of parents and the school.

"(2) SPECIAL RULE.—If the school has a parental involvement policy that applies to all parents, such school may amend that policy, if necessary, to meet the requirements of this subsection.

"(3) AMENDMENT.—If the local educational agency has a school district-level parental involvement policy that applies to all parents, such agency may amend that policy, if necessary, to meet the requirements of this subsection.

"(4) PARENTAL COMMENTS.—If the plan under section 1112 is not satisfactory to the parents of participating children, the local educational agency shall submit any parent comments with such plan when such local educational agency submits the plan to the State.

"(c) POLICY INVOLVEMENT.—Each school served under this part shall—

"(1) convene an annual meeting, at a convenient time, to which all parents of participating children shall be invited and encouraged to attend, to inform parents of their school's participation under this part and to explain this part, its requirements, and their right to be involved;

"(2) offer a flexible number of meetings, such as meetings in the morning or evening, and may provide, with funds provided under this part, transportation, child care, or home visits, as such services relate to parental involvement;

"(3) involve parents, in an organized, ongoing, and timely way, in the planning, review, and improvement of programs under this part, including the school parental involvement policy and the joint development of the schoolwide program plan under section 1114(b), except that if a school has in place a process for involving parents in the joint planning and design of its programs, the school may use that process, if such process includes an adequate representation of parents of participating children;

"(4) provide parents of participating children—

"(A) timely information about programs under this part;

"(B) school performance profiles required under section 1116(a)(3) and their child's individual student assessment results, including an interpretation of such results, as required under section 1111(b)(3)(H);

"(C) a description and explanation of the curriculum in use at the school, the forms of assessment used to measure student progress, and the proficiency levels students are expected to meet;

"(D) opportunities for regular meetings to formulate suggestions, share experiences with other parents, and participate as appropriate in decisions relating to the education of their children if such parents so desire; and

"(E) timely responses to parents' suggestions under subparagraph (D); and

"(5) if the schoolwide program plan under section 1114(b)(2) is not satisfactory to the parents of participating children, submit any parent comments on the plan when the school makes the plan available to the local educational agency.

"(d) **SHARED RESPONSIBILITIES FOR HIGH STUDENT PERFORMANCE.**—As a component of the school-level parental involvement policy developed under subsection (b), each school served under this part shall jointly develop with parents for all children served under this part a school-parent compact that outlines how parents, the entire school staff, and students will share the responsibility for improved student achievement and the means by which the school and parents will build and develop a partnership to help children achieve the State's high standards. Such compact shall—

"(1) describe the school's responsibility to provide high-quality curriculum and instruction in a supportive and effective learning environment that enables the children served under this part to meet the State's student performance standards, and the ways in which each parent will be responsible for supporting their children's learning, such as monitoring attendance, homework completion, and television watching; volunteering in their child's classroom; and participating, as appropriate, in decisions relating to the education of their children and positive use of extracurricular time; and

"(2) address the importance of communication between teachers and parents on an ongoing basis through, at a minimum—

"(A) parent-teacher conferences in elementary schools, at least annually, during which the compact shall be discussed as the compact relates to the individual child's achievement;

"(B) frequent reports to parents on their children's progress; and

"(C) reasonable access to staff, opportunities to volunteer and participate in their child's class, and observation of classroom activities.

"(e) **BUILDING CAPACITY FOR INVOLVEMENT.**—To ensure effective involvement of parents and to support a partnership among the school, parents, and the community to improve student

achievement, each school and local educational agency—

"(1) shall provide assistance to participating parents in such areas as understanding the National Education Goals, the State's content standards and State student performance standards, the provisions of section 1111(b)(8), State and local assessments, the requirements of this part, and how to monitor a child's progress and work with educators to improve the performance of their children as well as information on how parents can participate in decisions relating to the education of their children;

"(2) shall provide materials and training, such as—

"(A) coordinating necessary literacy training from other sources to help parents work with their children to improve their children's achievement; and

"(B) training to help parents to work with their children to improve their children's achievement;

"(3) shall educate teachers, pupil services personnel, principals and other staff, with the assistance of parents, in the value and utility of contributions of parents, and in how to reach out to, communicate with, and work with parents as equal partners, implement and coordinate parent programs, and build ties between home and school;

"(4) shall coordinate and integrate parent involvement programs and activities with Head Start, Even Start, the Home Instruction Programs for Preschool Youngsters, the Parents as Teachers Program, and public preschool programs and other programs, to the extent feasible and appropriate;

"(5) shall develop appropriate roles for community-based organizations and businesses in parent involvement activities, including providing information about opportunities for organizations and businesses to work with parents and schools, and encouraging the formation of partnerships between elementary, middle, and secondary schools and local businesses that include a role for parents;

"(6) shall conduct other activities, as appropriate and feasible, such as parent resource centers and providing opportunities for parents to learn about child development and child rearing issues beginning at the birth of a child, that are designed to help parents become full partners in the education of their children;

"(7) shall ensure, to the extent possible, that information related to school and parent programs, meetings, and other activities is sent to the homes of participating children in the language used in such homes;

"(8) may involve parents in the development of training for teachers, principals, and other educators to improve the effectiveness of such training in improving instruction and services to the children of such parents;

"(9) may provide necessary literacy training from funds received under this part if the local educational agency has exhausted all other reasonably available sources of funding for such activities;

"(10) may pay reasonable and necessary expenses associated with local parental involvement activities, including transportation and child care costs, to enable parents to participate in school-related meetings and training sessions;

"(11) may train and support parents to enhance the involvement of other parents;

"(12) may arrange meetings at a variety of times, such as in the mornings and evenings, in order to maximize the opportunities for parents to participate in school related activities;

"(13) may arrange for teachers or other educators, who work directly with participating children, to conduct in-home conferences with parents who are unable to attend such conferences at school;

"(14) may adopt and implement model approaches to improving parental involvement, such as Even Start; and

"(15) shall provide such other reasonable support for parental involvement activities under this section as parents may request.

"(f) **ACCESSIBILITY.**—In carrying out the parental involvement requirements of this part, local educational agencies and schools, to the extent practicable, shall provide full opportunities for the participation of parents with limited English proficiency or with disabilities, including providing information and school profiles in a language and form such parents understand.

"(g) **PARENTAL INFORMATION AND RESOURCE CENTERS.**—In States where parental information and resource centers have been established pursuant to section 401 of the Goals 2000: Educate America Act of 1994 (to provide training, information, and support to parents and individuals who work with parents), local educational agencies and schools receiving assistance under this part shall assist parents and parent organizations by informing such parents and organizations of the existence and purpose of such centers, providing such parents and organizations with a description of the services and programs provided by such centers, advising parents on how to use such centers, and helping parents to contact such centers.

#### "SEC. 1119. PROFESSIONAL DEVELOPMENT.

"(a) **PROGRAM REQUIREMENTS.**—

"(1) **IN GENERAL.**—Each local educational agency receiving assistance under this part shall provide high-quality professional development that will improve the teaching of the academic subjects, consistent with the State content standards, in order to enable all children to meet the State's student performance standards.

"(2) **PROGRAM DESIGN.**—Such professional development activities shall be designed by principals, teachers, and other school staff in schools receiving assistance under this part.

"(b) **PROFESSIONAL DEVELOPMENT ACTIVITIES.**—

"(1) **REQUIRED ACTIVITIES.**—Such professional development activities shall—

"(A) support instructional practices that are geared to challenging State content standards and create a school environment conducive to high achievement in the academic subjects;

"(B) support local educational agency plans under section 1112 and school plans under section 1114;

"(C) draw on resources available under this part, title III of the Goals 2000: Educate America Act, title II of this Act, and from other sources;

"(D) where appropriate, as determined by the local educational agency, include strategies for developing curricula and teaching methods that integrate academic and vocational instruction (including applied learning and team teaching strategies); and

"(E) include strategies for identifying and eliminating gender and racial bias in instructional materials, methods, and practices.

"(2) **OPTIONAL ACTIVITIES.**—Such professional development activities may include—

"(A) instruction in the use of assessments;

"(B) instruction in ways that teachers, principals, pupil services personnel, and school administrators may work more effectively with parents;

"(C) the forming of partnerships with institutions of higher education to establish school-based teacher training programs that provide prospective teachers and novice teachers with an opportunity to work under the guidance of experienced teachers and college faculty;

"(D) instruction in the use of technology;

"(E) the creation of career ladder programs for paraprofessionals (assisting teachers under this part) to obtain the education necessary for such paraprofessionals to become licensed and certified teachers;

"(F) instruction in ways to teach special needs children;

"(G) instruction in gender-equitable education methods, techniques, and practices;

"(H) joint professional development activities involving programs under this part, Head Start, Even Start, or State-run preschool program personnel; and

"(I) instruction in experiential-based teaching methods such as service learning.

"(c) PROGRAM PARTICIPATION.—Each local educational agency receiving assistance under this part is encouraged to design professional development programs so that—

"(1) all school staff in schools participating in a schoolwide program under section 1114 can participate in professional development activities; and

"(2) all school staff in targeted assistance schools may participate in professional development activities if such participation will result in better addressing the needs of students served under this part.

"(d) PARENTAL PARTICIPATION.—Parents may participate in professional development activities under this part if the school determines that parental participation is appropriate.

"(e) CONSORTIA.—In carrying out such professional development programs, local educational agencies may provide services through consortia arrangements with other local educational agencies, educational service agencies or other local consortia, institutions of higher education, or other public or private institutions or organizations.

"(f) EFFECTIVE TEACHING STRATEGIES.—Knowledge of effective teaching strategies that is gained through professional development activities under this section may be shared with teachers who are not participating in targeted assistance programs under this part.

"(g) COMBINATIONS OF FUNDS.—Funds provided under this part that are used for professional development purposes may be combined with funds provided under title II of this Act, title III of the Goals 2000: Educate America Act, and other sources.

"(h) STATE REVIEW.—

"(1) IN GENERAL.—The State educational agency shall review the local educational agency's plan under section 1112(b) to determine if such agency's professional development activities—

"(A) are tied to challenging State student content and student performance standards;

"(B) reflect research on teaching and learning where possible;

"(C) are designed to have a positive impact on the teacher's performance in the classroom;

"(D) contribute to continuous improvement in the classroom or throughout the school;

"(E) include methods to teach children with special needs;

"(F) are developed with the extensive participation of teachers; and

"(G) include gender-equitable education methods, techniques, and practices.

"(2) TECHNICAL ASSISTANCE.—If a local educational agency's plan for professional development does not include the activities described in paragraph (1), the State educational agency shall provide technical assistance to such local educational agencies to enable such agencies to make progress toward inclusion of such activities in the local educational agency's professional development activities.

"(3) SPECIAL RULE.—No State educational agency shall require a school or a local educational agency to expend a specific amount of funds for professional development activities under this part, except that this paragraph shall not apply with respect to requirements under section 1116(d)(6).

"(i) INSTRUCTIONAL AIDES.—

"(1) IN GENERAL.—If a local educational agency uses funds received under this part to employ instructional aides, the local educational agency shall ensure that such aides—

"(A) possess the knowledge and skills sufficient to assist participating children in meeting the educational goals of this part;

"(B)(i) have a secondary school diploma, or its recognized equivalent, or earn either within two years of employment, except that a local educational agency may employ an instructional aide that does not meet the requirement of this subparagraph if such aide possesses proficiency in a language other than English that is needed to enhance the participation of children in programs under this part; and

"(C) are under the direct supervision of a teacher who has primary responsibility for providing instructional services to eligible children.

"(2) INCLUSION IN ACTIVITIES.—Each local educational agency receiving funds under this part, when feasible, shall include instructional aides in professional development activities.

#### "SEC. 1120. PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS.

"(a) GENERAL REQUIREMENT.—

"(1) IN GENERAL.—To the extent consistent with the number of eligible children identified under section 1115(b) in a local educational agency who are enrolled in private elementary and secondary schools, a local educational agency shall, after timely and meaningful consultation with appropriate private school officials, provide such children, on an equitable basis, special educational services or other benefits under this part (such as dual enrollment, educational radio and television, computer equipment and materials, other technology, and mobile educational services and equipment).

"(2) SECULAR, NEUTRAL, NONIDEOLOGICAL.—Such educational services or other benefits, including materials and equipment, shall be secular, neutral, and nonideological.

"(3) EQUITY.—Educational services and other benefits for such private school children shall be equitable in comparison to services and other benefits for public school children participating under this part.

"(4) EXPENDITURES.—Expenditures for educational services and other benefits to eligible private school children shall be equal to the proportion of funds allocated to participating school attendance areas based on the number of children from low-income families who attend private schools.

"(5) PROVISION OF SERVICES.—The local educational agency may provide such services directly or through contracts with public and private agencies, organizations, and institutions.

"(b) CONSULTATION.—

"(1) IN GENERAL.—To ensure timely and meaningful consultation, a local educational agency shall consult with appropriate private school officials during the design and development of such agency's programs under this part, on issues such as—

"(A) how the children's needs will be identified;

"(B) what services will be offered;

"(C) how and where the services will be provided;

"(D) how the services will be assessed; and

"(E) the size and scope of the equitable services to be provided to the eligible private school children, and what is the proportion of funds allocated under subsection (a)(4) for such services.

"(2) TIMING.—Such consultation shall occur before the local educational agency makes any decision that affects the opportunities of eligible private school children to participate in programs under this part.

"(3) DISCUSSION.—Such consultation shall include a discussion of service delivery mecha-

nisms a local educational agency can use to provide equitable services to eligible private school children.

"(c) PUBLIC CONTROL OF FUNDS.—

"(1) IN GENERAL.—The control of funds provided under this part, and title to materials, equipment, and property purchased with such funds, shall be in a public agency, and a public agency shall administer such funds and property.

"(2) PROVISION OF SERVICES.—(A) The provision of services under this section shall be provided—

"(i) by employees of a public agency; or

"(ii) through contract by such public agency with an individual, association, agency, or organization.

"(B) In the provision of such services, such employee, person, association, agency, or organization shall be independent of such private school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency.

"(d) STANDARDS FOR A BYPASS.—If a local educational agency is prohibited by law from providing for the participation on an equitable basis of eligible children enrolled in private elementary and secondary schools or if the Secretary determines that a local educational agency has substantially failed or is unwilling to provide for such participation, as required by this section, the Secretary shall—

"(1) waive the requirements of this section for such local educational agency; and

"(2) arrange for the provision of services to such children through arrangements that shall be subject to the requirements of this section and sections 14505 and 14506.

"(e) CAPITAL EXPENSES.—

"(1) IN GENERAL.—(A) From the amount appropriated for this subsection under section 1002(e) for any fiscal year, each State is eligible to receive an amount that bears the same ratio to the amount so appropriated as the number of private school children who received services under this part in the State in the most recent year for which data satisfactory to the Secretary are available bears to the number of such children in all States in that same year.

"(B) The Secretary shall reallocate any amounts allocated under subparagraph (A) that are not used by a State for the purpose of this subsection to other States on the basis of their respective needs, as determined by the Secretary.

"(2) CAPITAL EXPENSES.—(A) A local educational agency may apply to the State educational agency for payments for capital expenses consistent with this subsection.

"(B) State educational agencies shall distribute such funds under this subsection to local educational agencies based on the degree of need set forth in their respective applications for assistance under this subsection.

"(3) USES OF FUNDS.—Any funds appropriated to carry out this subsection shall be used only for capital expenses incurred to provide equitable services for private school children under this section.

"(4) DEFINITION.—For the purpose of this subsection, the term 'capital expenses' means—

"(A) expenditures for noninstructional goods and services, such as the purchase, lease, or renovation of real and personal property, including mobile educational units and leasing of neutral sites or spaces;

"(B) insurance and maintenance costs;

"(C) transportation; and

"(D) other comparable goods and services.

#### "SEC. 1120A. FISCAL REQUIREMENTS.

"(a) MAINTENANCE OF EFFORT.—A local educational agency may receive funds under this part for any fiscal year only if the State educational agency finds that the local educational

agency has maintained its fiscal effort in accordance with section 14501 of this Act.

"(b) FEDERAL FUNDS TO SUPPLEMENT, NOT SUPPLANT, NON-FEDERAL FUNDS.—

"(1) IN GENERAL.—(A) Except as provided in subparagraph (B), a State or local educational agency shall use funds received under this part only to supplement the amount of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of pupils participating in programs assisted under this part, and not to supplant such funds.

"(B) For the purpose of complying with subparagraph (A), a State or local educational agency may exclude supplemental State and local funds expended in any eligible school attendance area or school for programs that meet the requirements of section 1114 or 1115.

"(2) SPECIAL RULE.—No local educational agency shall be required to provide services under this part through a particular instructional method or in a particular instructional setting in order to demonstrate such agency's compliance with paragraph (1).

"(c) COMPARABILITY OF SERVICES.—

"(1) IN GENERAL.—(A) Except as provided in paragraphs (4) and (5), a local educational agency may receive funds under this part only if State and local funds will be used in schools served under this part to provide services that, taken as a whole, are at least comparable to services in schools that are not receiving funds under this part.

"(B) If the local educational agency is serving all of such agency's schools under this part, such agency may receive funds under this part only if such agency will use State and local funds to provide services that, taken as a whole, are substantially comparable in each school.

"(C) A local educational agency may meet the requirements of subparagraphs (A) and (B) on a grade-span by grade-span basis or a school-by-school basis.

"(2) WRITTEN ASSURANCE.—(A) A local educational agency shall be considered to have met the requirements of paragraph (1) if such agency has filed with the State educational agency a written assurance that such agency has established and implemented—

"(i) a local educational agency-wide salary schedule;

"(ii) a policy to ensure equivalence among schools in teachers, administrators, and other staff; and

"(iii) a policy to ensure equivalence among schools in the provision of curriculum materials and instructional supplies.

"(B) For the purpose of subparagraph (A), in the determination of expenditures per pupil from State and local funds, or instructional salaries per pupil from State and local funds, staff salary differentials for years of employment shall not be included in such determinations.

"(C) A local educational agency need not include unpredictable changes in student enrollment or personnel assignments that occur after the beginning of a school year in determining comparability of services under this subsection.

"(3) PROCEDURES AND RECORDS.—Each local educational agency assisted under this part shall—

"(A) develop procedures for compliance with this subsection; and

"(B) maintain records that are updated biennially documenting such agency's compliance with this subsection.

"(4) INAPPLICABILITY.—This subsection shall not apply to a local educational agency that does not have more than one building for each grade span.

"(5) COMPLIANCE.—For the purpose of determining compliance with paragraph (1), a local educational agency may exclude State and local funds expended for—

"(A) bilingual education for children of limited English proficiency; and

"(B) excess costs of providing services to children with disabilities as determined by the local educational agency.

"SEC. 1120B. COORDINATION REQUIREMENTS.

"(a) IN GENERAL.—Each local educational agency receiving assistance under this part shall carry out the activities described in subsection (b) to the extent feasible and appropriate to the circumstances, including the extent to which such local educational agency is able to secure the cooperation of parents and local Head Start agencies and, if feasible, other early childhood development programs.

"(b) ACTIVITIES.—The activities referred to in subsection (a) are activities that increase coordination between the local educational agency and a Head Start agency, and, if feasible, other early childhood development programs, serving children who will attend the schools of such agency, including—

"(1) developing and implementing a systematic procedure for receiving records regarding such children transferred with parental consent from a Head Start program or, where applicable, other early childhood development programs;

"(2) establishing channels of communication between school staff and their counterparts in such Head Start agencies (including teachers, social workers, and health staff) or other early childhood development programs, as appropriate, to facilitate coordination of programs;

"(3) conducting meetings involving parents, kindergarten or elementary school teachers, and Head Start teachers or, if appropriate, teachers from other early childhood development programs, to discuss the developmental and other needs of individual children; and

"(4) organizing and participating in joint transition related training of school staff, Head Start staff, and, where appropriate, other early childhood staff.

"(c) COORDINATION OF REGULATIONS.—The Secretary shall work with the Secretary of Health and Human Services to coordinate regulations promulgated under this part with regulations promulgated under the Head Start Act Amendments of 1994.

#### "Subpart 2—Allocations

"SEC. 1121. GRANTS FOR THE OUTLYING AREAS AND THE SECRETARY OF THE INTERIOR.

"(a) RESERVATION OF FUNDS.—From the amount appropriated for payments to States for any fiscal year under section 1002(a), the Secretary shall reserve a total of 1 percent to provide assistance to—

"(1) the outlying areas on the basis of their respective need for such assistance according to such criteria as the Secretary determines will best carry out the purpose of this part; and

"(2) the Secretary of the Interior in the amount necessary to make payments pursuant to subsection (c).

"(b) ASSISTANCE TO THE OUTLYING AREAS.—

"(1) IN GENERAL.—From amounts made available under subsection (a) in each fiscal year the Secretary shall make grants to local educational agencies in the outlying areas (other than the outlying areas assisted under paragraph (3)).

"(2) COMPETITIVE GRANTS.—(A) The Secretary shall reserve \$5,000,000 from the amounts made available under subsection (a) in each fiscal year to award grants on a competitive basis, to local educational agencies in the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau. The Secretary shall award such grants according to the recommendations of the Pacific Region Educational Laboratory which shall conduct a competition for such grants.

"(B) Except as provided in subparagraph (D), grant funds awarded under this part only may

be used for programs described in this Act, including teacher training, curriculum development, instructional materials, or general school improvement and reform.

"(C) Grant funds awarded under this paragraph only may be used to provide direct educational services.

"(D) The Secretary may provide 5 percent of the amount made available for grants under this paragraph to pay the administrative costs of the Pacific Region Educational Laboratory regarding activities assisted under this paragraph.

"(c) ALLOTMENT TO THE SECRETARY OF THE INTERIOR.—

"(1) IN GENERAL.—The amount allotted for payments to the Secretary of the Interior under subsection (a)(2) for any fiscal year shall be, as determined pursuant to criteria established by the Secretary, the amount necessary to meet the special educational needs of—

"(A) Indian children on reservations served by elementary and secondary schools for Indian children operated or supported by the Department of the Interior; and

"(B) out-of-State Indian children in elementary and secondary schools in local educational agencies under special contracts with the Department of the Interior.

"(2) PAYMENTS.—From the amount allotted for payments to the Secretary of the Interior under subsection (a)(2), the Secretary of the Interior shall make payments to local educational agencies, upon such terms as the Secretary determines will best carry out the purposes of this part, with respect to out-of-State Indian children described in paragraph (1). The amount of such payment may not exceed, for each such child, the greater of—

"(A) 40 percent of the average per pupil expenditure in the State in which the agency is located; or

"(B) 48 percent of such expenditure in the United States.

"SEC. 1122. ALLOCATIONS TO STATES.

"(a) IN GENERAL.—

"(1) FISCAL YEAR 1995.—For fiscal year 1995, appropriations for this part shall be allocated according to the provisions of sections 1005, except subsection (a)(3), and 1006, part A of chapter 1 of title I, Elementary and Secondary Education Act of 1965, as in effect on September 30, 1994, except that the State minimum for section 1005 shall be the lesser of 0.25 percent of total appropriations or the average of 0.25 percent of total appropriations and 150 percent of the national average grant per child counted for grants under section 1005 multiplied by the State's number of children counted for such grants, and for grants under section 1006, the State minimum shall be the lesser of—

"(A) 0.25 percent of total appropriations; and

"(B) the average of—

"(i) 0.25 percent of total appropriations; and

"(ii) the greater of 150 percent of the national average grant per child counted for grants under such section 1006 multiplied by the State total number of such children, or \$340,000.

"(2) SUCCEEDING FISCAL YEARS.—For fiscal years 1996 through 1999, an amount of the appropriations for this part equal to the appropriation for fiscal year 1995 for section 1005, shall be allocated in accordance with section 1124, and an amount equal to the appropriation for fiscal year 1995 for section 1006 shall be allocated in accordance with section 1124A. Any additional appropriations under section 1002(a) for any fiscal year, after application of the preceding sentence, shall be allocated in accordance with section 1125.

"(b) ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS.—

"(1) IN GENERAL.—If the sums available under this part for any fiscal year are insufficient to pay the full amounts that all local educational

agencies in States are eligible to receive under sections 1124, 1124A, and 1125 for such year, the Secretary shall ratably reduce the allocations to such local educational agencies, subject to subsections (c) and (d) of this section.

"(2) ADDITIONAL FUNDS.—If additional funds become available for making payments under sections 1124, 1124A, and 1125 for such fiscal year, allocations that were reduced under paragraph (1) shall be increased on the same basis as they were reduced.

"(c) HOLD-HARMLESS AMOUNTS.—

"(1) IN GENERAL.—For fiscal year 1995, notwithstanding subsection (b) and without regard to amounts available for delinquent children under subpart 2 of part D, the amount made available to each local educational agency under such section 1005 shall be at least 85 percent of the amount such local educational agency received for the preceding year under such section 1005.

"(2) FISCAL YEAR 1996.—Notwithstanding subsection (b) and without regard to amounts available for delinquent children under subpart 2 of part D, for fiscal year 1996 the total amount made available to each local educational agency under each of sections 1124 and 1124A for any fiscal year shall be at least 100 percent of the total amount such local educational agency was allocated under such sections (or their predecessor authorities) for the preceding fiscal year.

"(3) FISCAL YEAR 1997-1999.—For fiscal years 1997 through 1999, notwithstanding subsection (b) and without regard to amounts available for delinquent children under subpart 2 of part D, the amount made available to each local educational agency under each of sections 1124 and 1125 shall be at least 95 percent of the previous year's amount if the number of children counted for grants under section 1124 is at least 30 percent of the total number of children aged 5 to 17 years, inclusive, in the local educational agency, 90 percent of the previous year amount if this percentage is between 15 percent and 30 percent, and 85 percent if this percentage is below 15 percent. For fiscal years 1997 and 1998, in calculating grants on the basis of population data for counties, the Secretary shall apply the hold-harmless percentages in the preceding sentence to counties. For fiscal years 1996 through 1998, if the Secretary's allocation for a county is not sufficient to meet the hold-harmless requirements of this paragraph for every local educational agency within that county, then the State educational agency shall reallocate funds proportionately from all other local educational agencies in the State that are receiving funds in excess of the hold-harmless amounts specified in this paragraph.

"(d) RATABLE REDUCTIONS.—

"(1) IN GENERAL.—If the sums made available under this part for any fiscal year are insufficient to pay the full amounts that all States are eligible to receive under subsection (a) for such year, the Secretary shall ratably reduce such amounts for such year.

"(2) ADDITIONAL FUNDS.—If additional funds become available for making payments under subsection (a) for such fiscal year, amounts that were reduced under paragraph (1) shall be increased on the same basis as such amounts reduced.

"(e) DEFINITION.—For the purpose of this section and sections 1124 and 1125, the term State means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

**"SEC. 1124. BASIC GRANTS TO LOCAL EDUCATIONAL AGENCIES.**

"(a) AMOUNT OF GRANTS.—

"(1) GRANTS FOR LOCAL EDUCATIONAL AGENCIES AND PUERTO RICO.—The grant which a local educational agency in a State is eligible to receive under this subpart for a fiscal year shall (except as provided in section 1126), be deter-

mined by multiplying the number of children counted under subsection (c) by 40 percent of the amount determined under the next sentence. The amount determined under this sentence shall be the average per pupil expenditure in the State except that—

"(A) if the average per pupil expenditure in the State is less than 80 percent of the average per pupil expenditure in the United States, such amount shall be 80 percent of the average per pupil expenditure in the United States; or

"(B) if the average per pupil expenditure in the State is more than 120 percent of the average per pupil expenditure in the United States, such amount shall be 120 percent of the average per pupil expenditure in the United States.

"(2) BASIS FOR CALCULATING GRANTS.—For fiscal years 1995 through 1998, grants shall be calculated by the Secretary on the basis of the number of children counted under subsection (c) for counties, and State educational agencies shall suballocate county amounts to local educational agencies, in accordance with regulations published by the Secretary. In any State in which a large number of local educational agencies overlap county boundaries, the State educational agency may apply to the Secretary for authority during any particular fiscal year to make the allocations under this part (other than section 1124A) directly to local educational agencies without regard to the counties. If the Secretary approves an application of a State educational agency for a particular year under this subparagraph, the State educational agency shall provide assurances that—

"(A) such allocations will be made using precisely the same factors for determining a grant as are used under this part;

"(B) such allocations will be made using alternative data approved by the Secretary that the State determines best reflects the distribution of children in poor families and is adjusted to be equivalent in proportion to the number of children determined in accordance with subsection (c); or

"(C) such allocations will be made using data that the State educational agency submits to the Secretary for approval that more accurately targets poverty.

In addition, the State educational agency shall provide assurances that a procedure will be established through which local educational agencies dissatisfied with the determinations made by the State educational agency may appeal directly to the Secretary for a final determination. Beginning in fiscal year 1999, grants shall be calculated by the Secretary on the basis of population data compiled for local educational agencies, unless the Secretary and the Secretary of Commerce determine that use of the updated population data would be inappropriate or unreliable taking into consideration the recommendations of the study to be conducted by the National Academy of Sciences. If the Secretary and the Secretary of Commerce determine that some or all of the data referred to in this paragraph are inappropriate or unreliable, the Secretaries shall jointly issue a report setting forth their reasons in detail. In years when grants are calculated by the Secretary on the basis of local educational agency data, for each local educational agency serving an area with a total population of at least 20,000 persons, the grant under this section shall be the amount determined by the Secretary. For local educational agencies serving areas with total populations of fewer than 20,000 persons, the State educational agency may either—

"(i) distribute to such local educational agencies grants under this section equal to the amounts determined by the Secretary; and

"(ii) use an alternative method, approved by the Secretary, to distribute the share of the State's total grants under this section that is

based on local educational agencies with total populations of fewer than 20,000 persons. Such an alternative method of distributing grants under this section among a State's local educational agencies serving areas with total populations of fewer than 20,000 persons shall be based upon population data that the State educational agency determines best reflect the current distribution of children in poor families among the State's local educational agencies serving areas with total populations of fewer than 20,000 persons. If a local educational agency serving an area with total population of less than 20,000 persons is dissatisfied with the determination of its grant by the State educational agency, then such local educational agency may appeal this determination to the Secretary. The Secretary must respond to this appeal within 45 days of receipt.

"(3) PUERTO RICO.—For each fiscal year, the Secretary shall determine the percentage which the average per pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per pupil expenditure of any of the 50 States. The grant which the Commonwealth of Puerto Rico shall be eligible to receive under this section for a fiscal year shall be the amount arrived at by multiplying the number of children counted under subsection (c) for the Commonwealth of Puerto Rico by the product of—

"(A) the percentage determined under the preceding sentence; and

"(B) 32 percent of the average per pupil expenditure in the United States.

"(4) DEFINITION.—For purposes of this subsection, the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and Palau.

"(b) MINIMUM NUMBER OF CHILDREN TO QUALIFY.—Subject to the succeeding sentence, a local educational agency shall be eligible for a basic grant for a fiscal year under this subpart only if the number of children counted under subsection (c) in the school district of such local educational agency is at least 10. Beginning in fiscal year 1996, no local educational agency shall be eligible for a grant under this section if the number of children counted for grants under this section is equal to 2 percent or less of the total school age population in the local educational agency. For fiscal years 1996 through 1998, grants not made as a result of applying the preceding sentence shall be reallocated by the State educational agency to other eligible local educational agencies in the State in proportion to the distribution of other funds under this section.

"(c) CHILDREN TO BE COUNTED.—

"(1) CATEGORIES OF CHILDREN.—The number of children to be counted for purposes of this section is the aggregate of—

"(A) the number of children aged 5 to 17, inclusive, in the school district of the local educational agency from families below the poverty level as determined under paragraph (2);

"(B) the number of children aged 5 to 17, inclusive, in the school district of such agency from families above the poverty level as determined under paragraph (5); and

"(C) the number of children aged 5 to 17, inclusive, in the school district of such agency in institutions for neglected and delinquent children (other than such institutions operated by the United States), but not counted pursuant to subpart 1 of part D for the purposes of a grant to a State agency, or being supported in foster homes with public funds.

"(2) DETERMINATION OF NUMBER OF CHILDREN.—For the purposes of this section, the Secretary shall determine the number of children aged 5 to 17, inclusive, from families below the poverty level on the basis of the most recent satisfactory data, described in paragraph (3), available from the Department of Commerce. For

fiscal year 1999 and beyond, the District of Columbia and the Commonwealth of Puerto Rico shall be treated as individual local educational agencies. If a local educational agency contains two or more counties in their entirety, then each county will be treated as if such county were a separate local educational agency for purposes of calculating grants under this part. The total of grants for such counties shall be allocated to such a local educational agency, which local educational agency shall distribute to schools in each county within such agency a share of the local educational agency's total grant that is no less than the county's share of the population counts used to calculate the local educational agency's grant.

"(3) POPULATION UPDATES.—In fiscal year 1997 and every 2 years thereafter, the Secretary shall use updated data on the number of children, aged 5 to 17, inclusive, from families below the poverty level for counties or local educational agencies, published by the Department of Commerce, unless the Secretary and the Secretary of Commerce determine that use of the updated population data would be inappropriate or unreliable, taking into consideration the recommendations of the study to be conducted by the National Academy of Sciences. If the Secretary and the Secretary of Commerce determine that some or all of the data referred to in this paragraph are inappropriate or unreliable, they shall jointly issue a report setting forth their reasons in detail. In determining the families which are below the poverty level, the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census, in such form as those criteria have been updated by increases in the Consumer Price Index for all urban consumers, published by the Bureau of Labor Statistics.

"(4) STUDY.—(A) The Secretary of Education shall, within 30 days after the date of enactment of the Improving America's School's Act of 1994, contract with the National Academy of Sciences (hereafter in this section referred to as the 'Academy') to study the program to produce intercensal poverty data for small geographic areas and certain age cohorts being developed by the Bureau of the Census.

"(B) In conducting its study, the Academy shall consider such matters as—

"(i) the methodology used to produce and publish intercensal poverty data, and possible alternative methods to improve the usefulness of the data for Federal program purposes;

"(ii) the availability of alternative indicators of poverty for small geographic areas, against which the poverty data produced and published by the Bureau of the Census could be compared;

"(iii) the reliability of the poverty data produced and published by the Bureau of the Census, particularly for less populous geographic areas;

"(iv) the reliability of intercensal poverty data produced and published by the Bureau of the Census, as compared over time to similar data produced by the Bureau of the Census during the most recent decennial census; and

"(v) the usefulness of poverty data produced and published by the Bureau of the Census for Federal programs that allocate funds to State and sub-State areas based, in whole or in part, on such data.

"(C) The Academy shall submit to the Secretary and the Secretary of Commerce, as well as to the Committee on Education and Labor and the Committee on Post Office and Civil Service of the House of Representatives and the Committee on Labor and Human Resources and the Committee on Governmental Affairs of the Senate—

"(i) not later than 18 months after the date on which a contract is entered into under subsection (a), and not later than every 18 months

thereafter, such interim reports on the Academy's activities under this Act that the Academy deems appropriate, including a detailed statement of the Academy's findings and conclusions with respect to any poverty data which the Bureau of the Census publishes and produces, within 90 days of such publication; and

"(ii) not later than December 31, 1998, a final report which shall include a more detailed statement of the Academy's findings and conclusions with respect to the use of any intercensal poverty data produced and published by the Bureau of the Census as the basis for allocating Federal funds under this Act.

"(D) Of the funds appropriated under section 1002(f) of this Act, the Secretary shall use such sums as are necessary in each of fiscal years 1995, 1996, 1997, 1998, and 1999 to carry out the provisions of this paragraph.

"(5) OTHER CHILDREN TO BE COUNTED.—For purposes of this section, the Secretary shall determine the number of children aged 5 to 17, inclusive, from families above the poverty level on the basis of the number of such children from families receiving an annual income, in excess of the current criteria of poverty, from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act; and in making such determinations the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census for a family of 4 in such form as those criteria have been updated by increases in the Consumer Price Index for all urban consumers, published by the Bureau of Labor Statistics. The Secretary shall determine the number of such children and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of October of the preceding fiscal year (using, in the case of children described in the preceding sentence, the criteria of poverty and the form of such criteria required by such sentence which were determined for the calendar year preceding such month of October) or, to the extent that such data are not available to the Secretary before January of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to the Secretary at the time of such determination. The Secretary of Health and Human Services shall collect and transmit the information required by this subparagraph to the Secretary not later than January 1 of each year.

"(6) ESTIMATE.—When requested by the Secretary, the Secretary of Commerce shall make a special updated estimate of the number of children of such ages who are from families below the poverty level (as determined under subparagraph (A) of this paragraph) in each school district, and the Secretary is authorized to pay (either in advance or by way of reimbursement) the Secretary of Commerce the cost of making this special estimate. The Secretary of Commerce shall give consideration to any request of the chief executive of a State for the collection of additional census information. For purposes of this section, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

"(d) STATE MINIMUM.—Notwithstanding subsections (b)(1) or (d) of section 1122, the aggregate amount allotted for all local educational agencies within a State may not be less than the lesser of—

"(1) 0.25 percent of total grants under this section; or

"(2) the average of—

"(A) one-quarter of 1 percent of the total amount available for such fiscal year under this section; and

"(B) the number of children in such State counted under subsection (c) in the fiscal year multiplied by 150 percent of the national average per pupil payment made with funds available under this section for that year.

#### "SEC. 1124A. CONCENTRATION GRANTS TO LOCAL EDUCATIONAL AGENCIES.

"(a) ELIGIBILITY FOR AND AMOUNT OF GRANTS.—

"(1) IN GENERAL.—(A) Except as otherwise provided in this paragraph, each local educational agency, in a State other than Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and Palau, which is eligible for a grant under this part for any fiscal year shall be eligible for an additional grant under this section for that fiscal year if—

"(i) the number of children counted under section 1124(c) in the county (for fiscal years 1996 through 1998), or local educational agency (for fiscal years beginning with 1999) for the fiscal year exceeds 6,500; or

"(ii) the number of children counted under section 1124(c) exceeds 15 percent of the total number of children aged 5 to 17, inclusive, in the county (for fiscal years 1996 through 1998), or local educational agency (for fiscal years beginning with 1999) in that fiscal year.

"(B) Notwithstanding such subsections (b)(1) and (d) of section 1122, no State described in subparagraph (A) shall receive less than the lesser of—

"(i) 0.25 percent of total grants; or

"(ii) the average of—

"(1) one-quarter of 1 percent of the sums available to carry out this section for such fiscal year; and

"(II) the greater of—

"(aa) \$340,000; or

"(bb) the number of children in such State counted for purposes of this section in that fiscal year multiplied by 150 percent of the national average per pupil payment made with funds available under this section for that year.

"(2) SPECIAL RULE.—For each county or local educational agency eligible to receive an additional grant under this section for any fiscal year the Secretary shall determine the product of—

"(A) the number of children counted under section 1124(c) for that fiscal year; and

"(B) the quotient resulting from the division of the amount determined for those agencies under section 1124(a)(1) for the fiscal year for which the determination is being made divided by the total number of children counted under section 1124(c) for that agency for fiscal year.

"(3) AMOUNT.—The amount of the additional grant for which an eligible local educational agency or county is eligible under this section for any fiscal year shall be an amount which bears the same ratio to the amount available to carry out this section for that fiscal year as the product determined under paragraph (2) for such local educational agency for that fiscal year bears to the sum of such products for all local educational agencies in the United States for that fiscal year.

"(4) SUBALLOCATION.—For fiscal years 1996 through 1998, county amounts shall be suballocated to local educational agencies meeting the criteria of paragraph (1)(A) by State educational agencies, in accordance with regulations published by the Secretary. For fiscal years 1995 through 1998, grants shall be calculated by the Secretary on the basis of the number of children counted under section 1124(c) for counties, and State educational agencies shall suballocate county amounts to local educational agencies, in accordance with regulations published by the Secretary. In any State in which a large number of local educational agencies overlap county boundaries,

the State educational agency may apply to the Secretary for authority during any particular fiscal year to make the allocations under this part (other than this section) directly to local educational agencies without regard to the counties. If the Secretary approves an application of a State educational agency for a particular year under this paragraph, the State educational agency shall provide assurances that—

“(A) such allocations will be made using precisely the same factors for determining a grant as are used under this part;

“(B) such allocations will be made using alternative data approved by the Secretary that the State determines best reflects the distribution of children in poor families and is adjusted to be equivalent in proportion to the number of children determined in accordance with section 1124(c); or

“(C) such allocations will be made using data that the State educational agency submits to the Secretary for approval that more accurately targets poverty.

In addition, the State educational agency shall provide assurances that a procedure will be established through which local educational agencies dissatisfied with the determinations made by the State educational agency may appeal directly to the Secretary for a final determination. A State may reserve not more than 2 percent of its allocations in fiscal years 1996 through 1998 under this section for the purpose of making grants to local educational agencies that meet the criteria of clause (i) or (ii) of paragraph (1)(A), but are in ineligible counties. For fiscal years beginning with 1999, for each local educational agency serving an area with a total population of at least 20,000 persons, the grant under this section shall be the amount determined by the Secretary. For local educational agencies serving areas with total populations of fewer than 20,000 persons, the State educational agency may either (i) distribute to such local educational agencies grants under this section equal to the amounts determined by the Secretary; or (ii) use an alternative method, approved by the Secretary, to distribute the share of the State's total grants under this section that is based on local educational agencies with total populations of fewer than 20,000 persons. Such an alternative method of distributing grants under this section among a State's local educational agencies serving areas with total populations of fewer than 20,000 persons shall be based upon population data that the State educational agency determines best reflects the current distribution of children in poor families among the State's local educational agencies serving areas with total populations of fewer than 20,000 persons and meeting the eligibility criteria of paragraph (1)(A). If a local educational agency serving an area with total population of less than 20,000 persons is dissatisfied with the determination of its grant by the State educational agency, then such local educational agency may appeal this determination to the Secretary. The Secretary shall respond to this appeal within 45 days of receipt. The Secretary shall consult with the Secretary of Commerce regarding whether available data on population for local educational agencies serving areas with total populations of fewer than 20,000 persons are sufficiently reliable to be used to determine final grants to such areas meeting the eligibility criteria of paragraph (1)(A).

“(b) RESERVATION OF FUNDS.—Of the total amount of funds available for this section and sections 1124 and 1125, an amount equal to the appropriation for fiscal year 1995 for section 1006 of this Act (as such section was in effect on the day preceding the date of enactment of this Act) shall be available to carry out this section.

“(c) RATABLE REDUCTION RULE.—If the sums available under subsection (b) for any fiscal

year for making payments under this section are not sufficient to pay in full the total amounts which all States are eligible to receive under subsection (a) for such fiscal year, the maximum amounts which all States are eligible to receive under subsection (a) for such fiscal year shall be ratably reduced. In the case that additional funds become available for making such payments for any fiscal year during which the preceding sentence is applicable, such reduced amounts shall be increased on the same basis as they were reduced.

“(d) STATES RECEIVING MINIMUM GRANTS.—In States that receive the minimum grant under subsection (a)(1)(B), the State educational agency shall allocate such funds among the local educational agencies in each State either—

“(1) in accordance with paragraphs (2) and (4) of subsection (a); or

“(2) based on their respective concentrations and numbers of children counted under section 1124(c), except that only those local educational agencies with concentrations or numbers of children counted under section 1124(c) that exceed the statewide average percentage of such children or the statewide average number of such children shall receive any funds on the basis of this paragraph.

#### “SEC. 1125. TARGETED GRANTS TO LOCAL EDUCATIONAL AGENCIES.

“(a) ELIGIBILITY OF LOCAL EDUCATIONAL AGENCIES.—A local educational agency in a State is eligible to receive a targeted grant under this section for any fiscal year if the number of children in the local educational agency counted under subsection 1124(c), before application of the weighting factor described in subsection (c), is at least 10, and if the number of children counted for grants under section 1124 is at least 5 percent of the total population aged 5 to 17 years, inclusive, in the local educational agency. Funds made available as a result of applying this subsection shall be reallocated by the State educational agency to other eligible local educational agencies in the State in proportion to the distribution of other funds under this section.

“(b) GRANTS FOR LOCAL EDUCATIONAL AGENCIES, THE DISTRICT OF COLUMBIA, AND PUERTO RICO.—

“(1) IN GENERAL.—The amount of the grant that a local educational agency in a State or that the District of Columbia is eligible to receive under this section for any fiscal year shall be the product of—

“(A) the weighted child count determined under subsection (c); and

“(B) the amount in the second sentence of subparagraph 1124(a)(1)(A).

“(2) PUERTO RICO.—For each fiscal year, the amount of the grant for which the Commonwealth of Puerto Rico is eligible under this section shall be equal to the number of children counted under subsection (c) for Puerto Rico, multiplied by the amount determined in subparagraph 1124(a)(3).

“(c) WEIGHTED CHILD COUNT.—

“(1) FISCAL YEARS 1966–1998.—

“(A) IN GENERAL.—The weighted child count used to determine a county's allocation under this section is the larger of the two amounts determined under clauses (i) or (ii), as follows:

“(i) BY PERCENTAGE OF CHILDREN.—This amount is determined by adding—

“(I) the number of children determined under section 1124(c) for that county constituting up to 12.20 percent, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

“(II) the number of such children constituting more than 12.20 percent, but not more than 17.70 percent, of such population, multiplied by 1.75;

“(III) the number of such children constituting more than 17.70 percent, but not more than

22.80 percent, of such population, multiplied by 2.5;

“(IV) the number of such children constituting more than 22.80 percent, but not more than 29.70 percent, of such population, multiplied by 3.25; and

“(V) the number of such children constituting more than 29.70 percent of such population, multiplied by 4.0.

“(ii) BY NUMBER OF CHILDREN.—This amount is determined by adding—

“(I) the number of children determined under section 1124(c) constituting up to 1,917, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

“(II) the number of such children between 1,918 and 5,938, inclusive, in such population, multiplied by 1.5;

“(III) the number of such children between 5,939 and 20,199, inclusive, in such population, multiplied by 2.0;

“(IV) the number of such children between 20,200 and 77,999, inclusive, in such population, multiplied by 2.5; and

“(V) the number of such children in excess of 77,999 in such population, multiplied by 3.0.

“(B) PUERTO RICO.—Notwithstanding subparagraph (A), the weighting factor for Puerto Rico under this paragraph shall not be greater than the total number of children counted under subsection 1124(c) multiplied by 1.72.

“(2) FISCAL YEARS AFTER 1998.—

“(A) IN GENERAL.—For each fiscal year beginning with fiscal year 1999 for which the Secretary uses local educational agency data, the weighted child count used to determine a local educational agency's grant under this section is the larger of the two amounts determined under clauses (i) and (ii), as follows:

“(i) BY PERCENTAGE OF CHILDREN.—This amount is determined by adding—

“(I) the number of children determined under section 1124(c) for that local educational agency constituting up to 14.265 percent, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

“(II) the number of such children constituting more than 14.265 percent, but not more than 21.553 percent, of such population, multiplied by 1.75;

“(III) the number of such children constituting more than 21.553 percent, but not more than 29.223 percent, of such population, multiplied by 2.5;

“(IV) the number of such children constituting more than 29.223 percent, but not more than 36.538 percent, of such population, multiplied by 3.25; and

“(V) the number of such children constituting more than 36.538 percent of such population, multiplied by 4.0.

“(ii) BY NUMBER OF CHILDREN.—This amount is determined by adding—

“(I) the number of children determined under section 1124(c) constituting up to 575, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

“(II) the number of such children between 576 and 1,870, inclusive, in such population, multiplied by 1.5;

“(III) the number of such children between 1,871 and 6,910, inclusive, in such population, multiplied by 2.0;

“(IV) the number of such children between 6,911 and 42,000, inclusive, in such population, multiplied by 2.5; and

“(V) the number of such children in excess of 42,000 in such population, multiplied by 3.0.

“(B) PUERTO RICO.—Notwithstanding subparagraph (A), the weighting factor for Puerto Rico under this paragraph shall not be greater than the total number of children counted under section 1124(c) multiplied by 1.72.

“(d) LOCAL EDUCATIONAL AGENCY ALLOCATIONS.—For fiscal years 1995 through 1998,

grants shall be calculated by the Secretary on the basis of the number of children counted under section 1124 for counties, and State educational agencies shall suballocate county amounts to local educational agencies, in accordance with regulations published by the Secretary. In any State in which a large number of local educational agencies overlap county boundaries, the State educational agency may apply to the Secretary for authority during any particular fiscal year to make the allocations under this part (other than section 1124A) directly to local educational agencies without regard to the counties. If the Secretary approves an application of a State educational agency for a particular year under this subparagraph, the State educational agency shall provide assurances that—

"(1) such allocations will be made using precisely the same factors for determining a grant as are used under this part;

"(2) such allocations will be made using alternative data approved by the Secretary that the State determines best reflects the distribution of children in poor families and is adjusted to be equivalent in proportion to the number of children determined in accordance with section 1124(c); or

"(3) such allocations will be made using data that the State educational agency submits to the Secretary for approval that more accurately targets poverty.

In addition, the State educational agency shall provide assurances that a procedure will be established through which local educational agencies dissatisfied with the determinations made by the State educational agency may appeal directly to the Secretary for a final determination. For fiscal years beginning in 1999, for each local educational agency serving an area with a total population of at least 20,000 persons, the grant under this section shall be the amount determined by the Secretary. For local educational agencies serving areas with total populations of fewer than 20,000 persons, the State educational agency may either (1) distribute to such local educational agencies grants under this section equal to the amounts determined by the Secretary; or (2) use an alternative method, approved by the Secretary, to distribute the share of the State's total grants under this section that is based on local educational agencies with total populations of fewer than 20,000 persons. Such an alternative method of distributing grants under this section among a State's local educational agencies serving areas with total populations of fewer than 20,000 persons shall be based upon population data that the State educational agency determines best reflects the current distribution of children in poor families among the State's local educational agencies serving areas with total populations of fewer than 20,000 persons. If a local educational agency serving an area with total populations of less than 20,000 persons is dissatisfied with the determination of its grant by the State educational agency, then the local educational agency may appeal this determination to the Secretary. The Secretary shall respond to this appeal within 45 days of receipt.

"(e) STATE MINIMUM.—Notwithstanding any other provision of this section or subsection (b)(1) or (d) of section 1122, from the total amount available for any fiscal year to carry out this section, each State shall be allotted at least the lesser of—

"(1) 0.25 percent of total appropriations; or

"(2) the average of—

"(A) one quarter of 1 percent of the total amount available to carry out this section; and

"(B) 150 percent of the national average grant under this section per child described in section 1124(c), without application of a weighting factor, multiplied by the State's total number of

children described in section 1124(c), without application of a weighting factor.

**"SEC. 1125A. EDUCATION FINANCE INCENTIVE PROGRAM.**

"(a) GRANTS.—The Secretary is authorized to make grants to States from the sums appropriated pursuant to subsection (e) to carry out the purposes of this part.

"(b) DISTRIBUTION BASED UPON FISCAL EFFORT AND EQUITY.—

"(1) IN GENERAL.—Funds appropriated pursuant to subsection (e) shall be allotted to each State based upon the number of children aged 5 to 17, inclusive, of such State multiplied by the product of—

"(A) such State's effort factor described in paragraph (2); multiplied by

"(B) 1.30 minus such State's equity factor described in paragraph (3),

except that for each fiscal year no State shall receive less than one-quarter of 1 percent of the total amount appropriated pursuant to subsection (e) for such fiscal year.

"(2) EFFORT FACTOR.—(A) Except as provided in subparagraph (B), the effort factor for a State shall be determined in accordance with the succeeding sentence, except that such factor shall not be less than .95 nor greater than 1.05. The effort factor determined under this sentence shall be a fraction the numerator of which is the product of the three-year average per-pupil expenditure in the State multiplied by the three-year average per capita income in the United States and the denominator of which is the product of the three-year average per capita income in such State multiplied by the three-year average per-pupil expenditure in the United States.

"(B) The effort factor for the Commonwealth of Puerto Rico shall be equal to the lowest effort factor calculated under subparagraph (A) for any State.

"(3) EQUITY FACTOR.—(A)(i) Except as provided in subparagraph (B), the Secretary shall determine the equity factor under this section for each State in accordance with clause (ii).

"(ii)(I) For each State, the Secretary shall compute a weighted coefficient of variation for the per-pupil expenditures of local educational agencies in accordance with subclauses (II), (III), (IV), and (V).

"(II) In computing coefficients of variation, the Secretary shall weight the variation between per-pupil expenditures in each local educational agency and the average per-pupil expenditures in the State according to the number of pupils in the local educational agency.

"(III) In determining the number of pupils under this paragraph in each local educational agency and each State, the Secretary shall multiply the number of children from low-income families by 1.4 under this paragraph.

"(IV) In computing coefficients of variation, the Secretary shall include only those local educational agencies with an enrollment of more than 200 students.

"(V) The Secretary shall compute separate coefficients of variation for elementary, secondary, and unified local educational agencies and shall combine such coefficients into a single weighted average coefficient for the State by multiplying each coefficient by the total enrollments of the local educational agencies in each group, adding such products, and dividing such sum by the total enrollments of the local educational agencies in the State.

"(B) The equity factor for a State that meets the disparity standard described in section 222.63 of title 34, Code of Federal Regulations (as such section was in effect on the day preceding the date of enactment of this Act) or a State with only one local educational agency shall be not greater than .10.

"(C) The Secretary may revise each State's equity factor as necessary based on the advice of

independent education finance scholars to reflect other need-based costs of local educational agencies in addition to low-income student enrollment, such as differing geographic costs, costs associated with students with disabilities, children with limited-English proficiency or other meaningful educational needs, which deserve additional support. In addition and also with the advice of independent education finance scholars, the Secretary may revise each State's equity factor to incorporate other valid and accepted methods to achieve adequacy of educational opportunity that may not be reflected in a coefficient of variation method.

"(c) USE OF FUNDS.—All funds awarded to each State under this section shall be allocated to local educational agencies and schools on a basis consistent with the distribution of other funds to such agencies and schools under sections 1124, 1124A, and 1125 to carry out activities under this part.

"(d) MAINTENANCE OF EFFORT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a State is entitled to receive its full allotment of funds under this part for any fiscal year if the Secretary finds that either the combined fiscal effort per student or the aggregate expenditures within the State with respect to the provision of free public education for the fiscal year preceding the fiscal year for which the determination is made was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second fiscal year preceding the fiscal year for which the determination is made.

"(2) REDUCTION OF FUNDS.—The Secretary shall reduce the amount of the funds awarded to any State under this section in any fiscal year in the exact proportion to which the State fails to meet the requirements of paragraph (1) by falling below 90 percent of both the fiscal effort per student and aggregate expenditures (using the measure most favorable to the State), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

"(3) WAIVERS.—The Secretary may waive, for one fiscal year only, the requirements of this subsection if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

"(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants under this section, there are authorized to be appropriated \$200,000,000 for fiscal year 1996 and such sums as may be necessary for each of the three succeeding fiscal years.

**"SEC. 1126. SPECIAL ALLOCATION PROCEDURES.**

"(a) ALLOCATIONS FOR NEGLECTED CHILDREN.—

"(1) IN GENERAL.—If a State educational agency determines that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children who are living in institutions for neglected children as described in subparagraph 1124(c)(1)(C), the State educational agency shall, if such agency assumes responsibility for the special educational needs of such children, receive the portion of such local educational agency's allocation under sections 1124, 1124A, and 1125 that is attributable to such children.

"(2) SPECIAL RULE.—If the State educational agency does not assume such responsibility, any other State or local public agency that does assume such responsibility shall receive that portion of the local educational agency's allocation.

"(b) ALLOCATIONS AMONG LOCAL EDUCATIONAL AGENCIES.—The State educational agency may allocate the amounts of grants under sections 1124, 1124A, and 1125 among the affected local educational agencies—

"(1) if two or more local educational agencies serve, in whole or in part, the same geographical area;

"(2) if a local educational agency provides free public education for children who reside in the school district of another local educational agency; or

"(3) to reflect the merger, creation, or change of boundaries of one or more local educational agencies.

"(c) REALLOCATION.—If a State educational agency determines that the amount of a grant a local educational agency would receive under sections 1124, 1124A, and 1125 is more than such local agency will use, the State educational agency shall make the excess amount available to other local educational agencies in the State that need additional funds in accordance with criteria established by the State educational agency.

#### "SEC. 1127. CARRYOVER AND WAIVER.

"(a) LIMITATION ON CARRYOVER.—Notwithstanding section 421 of the General Education Provisions Act or any other provision of law, not more than 15 percent of the funds allocated to a local educational agency for any fiscal year under this subpart (but not including funds received through any reallocation under this subpart) may remain available for obligation by such agency for one additional fiscal year.

"(b) WAIVER.—A State educational agency may, once every three years, waive the percentage limitation in subsection (a) if—

"(1) the agency determines that the request of a local educational agency is reasonable and necessary; or

"(2) supplemental appropriations for this subpart become available.

"(c) EXCLUSION.—The percentage limitation under subsection (a) shall not apply to any local educational agency that receives less than \$50,000 under this subpart for any fiscal year.

#### "PART B—EVEN START FAMILY LITERACY PROGRAMS

##### "SEC. 1201. STATEMENT OF PURPOSE.

"It is the purpose of this part to help break the cycle of poverty and illiteracy by improving the educational opportunities of the Nation's low-income families by integrating early childhood education, adult literacy or adult basic education, and parenting education into a unified family literacy program, to be referred to as 'Even Start'. The program shall—

"(1) be implemented through cooperative projects that build on existing community resources to create a new range of services;

"(2) promote achievement of the National Education Goals; and

"(3) assist children and adults from low-income families to achieve to challenging State content standards and challenging State student performance standards.

##### "SEC. 1202. PROGRAM AUTHORIZED.

"(a) RESERVATION FOR MIGRANT PROGRAMS, OUTLYING AREAS, AND INDIAN TRIBES.—

"(1) IN GENERAL.—For each fiscal year, the Secretary shall reserve 5 percent of the amount appropriated under section 1002(b) for programs, under such terms and conditions as the Secretary shall establish, that are consistent with the purpose of this part, and according to their relative needs, for—

"(A) children of migratory workers;

"(B) the outlying areas; and

"(C) Indian tribes and tribal organizations.

"(2) SPECIAL RULE.—If the amount of funds made available under this subsection exceeds \$4,600,000, the Secretary shall award a grant, on a competitive basis, of sufficient size and for a period of sufficient duration to demonstrate the effectiveness of a family literacy program in a prison that houses women and their preschool age children and that has the capability of developing a program of high quality.

"(b) RESERVATION FOR FEDERAL ACTIVITIES.—From amounts appropriated under section 1002(b), the Secretary may reserve not more than three percent of such amounts or the amount reserved to carry out the activities described in paragraphs (1) and (2) of subsection (a) for the fiscal year 1994, whichever is greater, for purposes of—

"(1) carrying out the evaluation required by section 1209; and

"(2) providing, through grants or contracts with eligible organizations, technical assistance, program improvement, and replication activities.

"(c) RESERVATION FOR GRANTS.—

"(1) GRANTS AUTHORIZED.—In any fiscal year in which the amount appropriated to carry out this part exceeds the amount appropriated to carry out this part for the preceding fiscal year, the Secretary may reserve such funds in excess of the amount appropriated for such preceding fiscal years as do not exceed \$1,000,000 to award grants, on a competitive basis, to States to enable such States to plan and implement, statewide family literacy initiatives to coordinate and integrate existing Federal, State, and local literacy resources consistent with the purposes of this part. Such coordination and integration shall include funds available under the Adult Education Act, Head Start, Even Start, and the Family Support Act of 1988.

"(2) MATCHING REQUIREMENT.—The Secretary shall not make a grant to a State under paragraph (1) unless the State agrees that, with respect to the costs to be incurred by the eligible consortium in carrying out the activities for which the grant was awarded, the State will make available non-Federal contributions in an amount equal to not less than the Federal funds provided under the grant.

"(d) STATE ALLOCATION.—

"(1) IN GENERAL.—From amounts appropriated under section 1002(b) and not reserved under subsections (a), (b), and (c), the Secretary shall make grants to States from allocations under paragraph (2).

"(2) ALLOCATIONS.—Except as provided in paragraph (3), from the total amount available for allocation to States in any fiscal year, each State shall be eligible to receive a grant under paragraph (1) in an amount that bears the same ratio to such total amount as the amount allocated under part A to that State bears to the total amount allocated under that section to all the States.

"(3) MINIMUM.—No State shall receive a grant under paragraph (1) in any fiscal year in an amount which is less than \$250,000, or one-half of 1 percent of the amount appropriated under section 1002(b) and not reserved under subsections (a), (b), and (c) for such year, whichever is greater.

"(e) DEFINITIONS.—For the purpose of this part—

"(1) the term 'eligible entity' means a partnership composed of both—

"(A) a local educational agency; and

"(B) a nonprofit community-based organization, a public agency other than a local educational agency, an institution of higher education, or a public or private nonprofit organization other than a local educational agency, of demonstrated quality;

"(2) the term 'eligible organization' means any public or private nonprofit organization with a record of providing effective services to family literacy providers, such as the National Center for Family Literacy, Parents as Teachers, Inc., the Home Instruction Program for Preschool Youngsters, and the Home and School Institute, Inc.;

"(3) the terms 'Indian tribe' and 'tribal organization' have the meanings given such terms in section 4 of the Indian Self-Determination and Education Assistance Act; and

"(4) the term 'State' includes each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

#### "SEC. 1203. STATE PROGRAMS.

"(a) STATE LEVEL ACTIVITIES.—Each State that receives a grant under section 1202(d)(1) may use not more than 5 percent of the grant funds for the costs of—

"(1) administration; and

"(2) providing, through one or more subgrants or contracts, technical assistance for program improvement and replication, to eligible entities that receive subgrants under subsection (b).

"(b) SUBGRANTS FOR LOCAL PROGRAMS.—

"(1) IN GENERAL.—Each State shall use the grant funds received under section 1202(d)(1) and not reserved under subsection (a) to award subgrants to eligible entities to carry out Even Start programs.

"(2) MINIMUM.—No State shall award a subgrant under paragraph (1) in an amount less than \$75,000, except that a State may award one subgrant in each fiscal year of sufficient size, scope, and quality to be effective in an amount less than \$75,000 if, after awarding subgrants under paragraph (1) for such fiscal year in amounts of \$75,000 or greater, less than \$75,000 is available to the State to award such subgrants.

#### "SEC. 1204. USES OF FUNDS.

"(a) IN GENERAL.—In carrying out an Even Start program under this part, a recipient of funds under this part shall use such funds to pay the Federal share of the cost of providing family-centered education programs that involve parents and children, from birth through age seven, in a cooperative effort to help parents become full partners in the education of their children and to assist children in reaching their full potential as learners.

"(b) FEDERAL SHARE LIMITATION.—

"(1) IN GENERAL.—(A) Except as provided in paragraph (2), the Federal share under this part may not exceed—

"(i) 90 percent of the total cost of the program in the first year that such program receives assistance under this part or its predecessor authority;

"(ii) 80 percent in the second such year;

"(iii) 70 percent in the third such year;

"(iv) 60 percent in the fourth such year; and

"(v) 50 percent in any subsequent such year.

"(B) The remaining cost of a program assisted under this part may be provided in cash or in kind, fairly evaluated and may be obtained from any source, including other Federal funds under this Act.

"(2) WAIVER.—The State educational agency may waive, in whole or in part, the cost-sharing requirement described in paragraph (1) for an eligible entity if such entity—

"(A) demonstrates that such entity otherwise would not be able to participate in the program assisted under this part; and

"(B) negotiates an agreement with the State educational agency with respect to the amount of the remaining cost to which the waiver will be applicable.

"(3) PROHIBITION.—Federal funds provided under this part may not be used for the indirect costs of a program assisted under this part, except that the Secretary may waive this paragraph if an eligible recipient of funds reserved under section 1202(a)(1)(C) demonstrates to the Secretary's satisfaction that such recipient otherwise would not be able to participate in the program assisted under this part.

#### "SEC. 1205. PROGRAM ELEMENTS.

"Each program assisted under this part shall—

"(1) include the identification and recruitment of families most in need of services provided under this part, as indicated by a low level of income, a low level of adult literacy or

English language proficiency of the eligible parent or parents, and other need-related indicators;

"(2) include screening and preparation of parents, including teenage parents and children to enable such parents to participate fully in the activities and services provided under this part, including testing, referral to necessary counseling, other developmental and support services, and related services;

"(3) be designed to accommodate the participants' work schedule and other responsibilities, including the provision of support services, when such services are unavailable from other sources, necessary for participation in the activities assisted under this part, such as—

"(A) scheduling and locating of services to allow joint participation by parents and children;

"(B) child care for the period that parents are involved in the program provided under this part; and

"(C) transportation for the purpose of enabling parents and their children to participate in programs authorized by this part;

"(4) include high-quality instructional programs that promote adult literacy and empower parents to support the educational growth of their children, developmentally appropriate early childhood educational services, and preparation of children for success in regular school programs;

"(5) include special training of staff, including child care staff, to develop the skills necessary to work with parents and young children in the full range of instructional services offered through this part;

"(6) provide and monitor integrated instructional services to participating parents and children through home-based programs;

"(7) operate on a year-round basis, including the provision of some program services, instructional or enrichment, during the summer months;

"(8) be coordinated with—

"(A) programs assisted under other parts of this title and this Act;

"(B) any relevant programs under the Adult Education Act, the Individuals with Disabilities Education Act, and the Job Training Partnership Act; and

"(C) the Head Start program, volunteer literacy programs, and other relevant programs;

"(9) ensure that the programs will serve those families most in need of the activities and services provided by this part; and

"(10) provide for an independent evaluation of the program.

#### "SEC. 1206. ELIGIBLE PARTICIPANTS.

"(a) IN GENERAL.—Except as provided in subsection (b), eligible participants in an Even Start program are—

"(1) a parent or parents—

"(A) who are eligible for participation in an adult basic education program under the Adult Education Act; or

"(B) who are within the State's compulsory school attendance age range, so long as a local educational agency provides (or ensures the availability of) the basic education component required under this part; and

"(2) the child or children, from birth through age seven, of any individual described in paragraph (1).

"(b) ELIGIBILITY FOR CERTAIN OTHER PARTICIPANTS.—

"(1) IN GENERAL.—Family members of eligible participants described in subsection (a) may participate in activities and services provided under this part, when appropriate to serve the purpose of this part.

"(2) SPECIAL RULE.—Any family participating in a program assisted under this part that becomes ineligible for such participation as a re-

sult of one or more members of the family becoming ineligible for such participation may continue to participate in the program until all members of the family become ineligible for such participation, which—

"(A) in the case of a family in which ineligibility was due to the child or children of such family attaining the age of eight, shall be in two years or when the parent or parents become ineligible due to educational advancement, whichever occurs first; and

"(B) in the case of a family in which ineligibility was due to the educational advancement of the parent or parents of such family, shall be when all children in the family attain the age of eight.

#### "SEC. 1207. APPLICATIONS.

"(a) SUBMISSION.—To be eligible to receive a subgrant under this part, an eligible entity shall submit an application to the State educational agency in such form and containing or accompanied by such information as the State educational agency shall require.

"(b) REQUIRED DOCUMENTATION.—Each application shall include documentation, satisfactory to the State educational agency, that the eligible entity has the qualified personnel needed—

"(1) to develop, administer, and implement an Even Start program under this part; and

"(2) to provide access to the special training necessary to prepare staff for the program, which may be offered by an eligible organization.

"(c) PLAN.—

"(1) IN GENERAL.—Such application shall also include a plan of operation for the program which shall include—

"(A) a description of the program goals;

"(B) a description of the activities and services that will be provided under the program, including a description of how the program will incorporate the program elements required by section 1205;

"(C) a description of the population to be served and an estimate of the number of participants to be served;

"(D) as appropriate, a description of the applicant's collaborative efforts with institutions of higher education, community-based organizations, the State educational agency, private elementary schools, or other eligible organizations in carrying out the program for which assistance is sought;

"(E) a statement of the methods that will be used—

"(i) to ensure that the programs will serve families most in need of the activities and services provided by this part;

"(ii) to provide services under this part to individuals with special needs, such as individuals with limited English proficiency and individuals with disabilities; and

"(iii) to encourage participants to remain in the program for a time sufficient to meet the program's purpose; and

"(F) a description of how the plan is integrated with other programs under this Act, the Goals 2000: Educate America Act, or other Acts, as appropriate, consistent with section 14306.

"(2) DURATION OF THE PLAN.—Each plan submitted under paragraph (1)(A) shall—

"(A) remain in effect for the duration of the eligible entity's participation under this part; and

"(B) be periodically reviewed and revised by the eligible entity as necessary.

"(d) CONSOLIDATED APPLICATION.—The plan described in subsection (c)(1)(F) may be submitted as part of a consolidated application under section 14302.

#### "SEC. 1208. AWARD OF SUBGRANTS.

"(a) SELECTION PROCESS.—

"(1) IN GENERAL.—The State educational agency shall establish a review panel in accord-

ance with paragraph (3) that will approve applications that—

"(A) are most likely to be successful in—

"(i) meeting the purpose of this part; and

"(ii) effectively implementing the program elements required under section 1205;

"(B) demonstrate that the area to be served by such program has a high percentage or a large number of children and families who are in need of such services as indicated by high levels of poverty, illiteracy, unemployment, limited-English proficiency, or other need-related indicators, including a high percentage of children to be served by the program who reside in a school attendance area eligible for participation in programs under part A;

"(C) provide services for at least a three-year age range, which may begin at birth;

"(D) demonstrate the greatest possible cooperation and coordination between a variety of relevant service providers in all phases of the program;

"(E) include cost-effective budgets, given the scope of the application;

"(F) demonstrate the applicant's ability to provide the Federal share required by section 1204(b);

"(G) are representative of urban and rural regions of the State; and

"(H) show the greatest promise for providing models that may be adopted by other local educational agencies.

"(2) PRIORITY FOR SUBGRANTS.—The State educational agency shall give priority for subgrants under this subsection to applications that—

"(A) target services primarily to families described in paragraph (1)(B); or

"(B) are located in areas designated as empowerment zones or enterprise communities.

"(3) REVIEW PANEL.—A review panel shall consist of at least three members, including one early childhood professional, one adult education professional, and one or more of the following individuals:

"(A) A representative of a parent-child education organization.

"(B) A representative of a community-based literacy organization.

"(C) A member of a local board of education.

"(D) A representative of business and industry with a commitment to education.

"(E) An individual who has been involved in the implementation of programs under this title in the State.

"(b) DURATION.—

"(1) IN GENERAL.—Subgrants under this part may be awarded for a period not to exceed four years.

"(2) STARTUP PERIOD.—The State educational agency may provide subgrant funds to an eligible recipient, at such recipient's request, for a three- to six-month startup period during the first year of the four-year grant period, which may include staff recruitment and training, and the coordination of services, before requiring full implementation of the program.

"(3) CONTINUING ELIGIBILITY.—In awarding subgrant funds to continue a program under this part for the second, third, or fourth year, the State educational agency shall review the progress being made toward meeting the objectives of the program after the conclusion of the startup period, if any.

"(4) INSUFFICIENT PROGRESS.—The State educational agency may refuse to award subgrant funds if such agency finds that sufficient progress has not been made toward meeting such objectives, but only after affording the applicant notice and an opportunity for a hearing.

"(5) GRANT RENEWAL.—(A) An eligible entity that has previously received a subgrant under this part may reapply under this part for additional subgrants. An eligible recipient may receive funds under this part for a period not to exceed eight years.

"(B) The Federal share of any subgrant renewed under subparagraph (A) shall not exceed 50 percent in any fiscal year.

**"SEC. 1209. EVALUATION.**

"From funds reserved under section 1202(b)(1), the Secretary shall provide for an independent evaluation of programs assisted under this part—

"(1) to determine the performance and effectiveness of programs assisted under this part; and

"(2) to identify effective Even Start programs assisted under this part that can be duplicated and used in providing technical assistance to Federal, State, and local programs.

**"SEC. 1210. CONSTRUCTION.**

"Nothing in this part shall be construed to prohibit a recipient of funds under this part from serving students participating in Even Start simultaneously with students with similar educational needs, in the same educational settings where appropriate.

**"PART C—EDUCATION OF MIGRATORY CHILDREN**

**"SEC. 1301. PROGRAM PURPOSE.**

"It is the purpose of this part to assist States to—

"(1) support high-quality and comprehensive educational programs for migratory children to help reduce the educational disruptions and other problems that result from repeated moves;

"(2) ensure that migratory children are provided with appropriate educational services (including supportive services) that address their special needs in a coordinated and efficient manner;

"(3) ensure that migratory children have the opportunity to meet the same challenging State content standards and challenging State student performance standards that all children are expected to meet;

"(4) design programs to help migratory children overcome educational disruption, cultural and language barriers, social isolation, various health-related problems, and other factors that inhibit the ability of such children to do well in school, and to prepare such children to make a successful transition to postsecondary education or employment; and

"(5) ensure that migratory children benefit from State and local systemic reforms.

**"SEC. 1302. PROGRAM AUTHORIZED.**

"In order to carry out the purpose of this part, the Secretary shall make grants to State educational agencies, or combinations of such agencies, to establish or improve, directly or through local operating agencies, programs of education for migratory children in accordance with this part.

**"SEC. 1303. STATE ALLOCATIONS.**

"(a) STATE ALLOCATIONS.—Each State (other than the Commonwealth of Puerto Rico) is entitled to receive under this part, for each fiscal year, an amount equal to—

"(1) the sum of the estimated number of migratory children aged three through 21 who reside in the State full time and the full-time equivalent of the estimated number of migratory children aged three through 21 who reside in the State part time, as determined in accordance with subsection (e); multiplied by

"(2) 40 percent of the average per-pupil expenditure in the State, except that the amount determined under this paragraph shall not be less than 32 percent, nor more than 48 percent, of the average expenditure per pupil in the United States.

"(b) ALLOCATION TO PUERTO RICO.—For each fiscal year, the amount for which the Commonwealth of Puerto Rico is eligible under this section shall be equal to—

"(1) the number of migratory children in Puerto Rico, determined under subsection (a)(1); multiplied by

"(2) the product of—

"(A) the percentage that the average per-pupil expenditure in Puerto Rico is of the lowest average per-pupil expenditure of any of the 50 States; and

"(B) 32 percent of the average per-pupil expenditure in the United States.

"(c) RATABLE REDUCTIONS; REALLOCATIONS.—

"(1) IN GENERAL.—(A) If, after the Secretary reserves funds under section 1308(c), the amount appropriated to carry out this part for any fiscal year is insufficient to pay in full the amounts for which all States are eligible, the Secretary shall ratably reduce each such amount.

"(B) If additional funds become available for making such payments for any fiscal year, the Secretary shall allocate such funds to States in amounts that the Secretary determines will best carry out the purpose of this part.

"(2) SPECIAL RULE.—(A) The Secretary shall further reduce the amount of any grant to a State under this part for any fiscal year if the Secretary determines, based on available information on the numbers and needs of migratory children in the State and the program proposed by the State to address such needs, that such amount exceeds the amount required under section 1304.

"(B) The Secretary shall reallocate such excess funds to other States whose grants under this part would otherwise be insufficient to provide an appropriate level of services to migratory children, in such amounts as the Secretary determines are appropriate.

"(d) CONSORTIUM ARRANGEMENTS.—

"(1) IN GENERAL.—In the case of a State that receives a grant of \$1,000,000 or less under this section, the Secretary shall consult with the State educational agency to determine whether consortium arrangements with another State or other appropriate entity would result in delivery of services in a more effective and efficient manner.

"(2) PROPOSALS.—Any State, regardless of the amount of such State's allocation, may submit a consortium arrangement to the Secretary for approval.

"(3) APPROVAL.—The Secretary shall approve a consortium arrangement under paragraph (1) or (2) if the proposal demonstrates that the arrangement will—

"(A) reduce administrative costs or program function costs for State programs; and

"(B) make more funds available for direct services to add substantially to the welfare or educational attainment of children to be served under this part.

"(e) DETERMINING NUMBERS OF ELIGIBLE CHILDREN.—In order to determine the estimated number of migratory children residing in each State for purposes of this section, the Secretary shall—

"(1) use such information as the Secretary finds most accurately reflects the actual number of migratory children;

"(2) develop and implement a procedure for more accurately reflecting cost factors for different types of summer and intersession program designs;

"(3) adjust the full-time equivalent number of migratory children who reside in each State to take into account—

"(A) the special needs of those children participating in special programs provided under this part that operate during the summer and intersession periods; and

"(B) the additional costs of operating such programs; and

"(4) conduct an analysis of the options for adjusting the formula so as to better direct services to the child whose education has been interrupted.

**"SEC. 1304. STATE APPLICATIONS; SERVICES.**

"(a) APPLICATION REQUIRED.—Any State desiring to receive a grant under this part for any

fiscal year shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

"(b) PROGRAM INFORMATION.—Each such application shall include—

"(1) a description of how, in planning, implementing, and evaluating programs and projects assisted under this part, the State and its local operating agencies will ensure that the special educational needs of migratory children, including preschool migratory children, are identified and addressed through a comprehensive plan for needs assessment and service delivery that meets the requirements of section 1306;

"(2) a description of the steps the State is taking to provide all migratory students with the opportunity to meet the same challenging State content standards and challenging State student performance standards that all children are expected to meet;

"(3) a description of how the State will use funds received under this part to promote interstate and intrastate coordination of services for migratory children, including how, consistent with procedures the Secretary may require, the State will provide for educational continuity through the timely transfer of pertinent school records, including information on health, when children move from one school to another, whether or not such move occurs during the regular school year;

"(4) a description of the State's priorities for the use of funds received under this part, and how such priorities relate to the State's assessment of needs for services in the State;

"(5) a description of how the State will determine the amount of any subgrants the State will award to local operating agencies, taking into account the requirements of paragraph (1); and

"(6) such budgetary and other information as the Secretary may require.

"(c) ASSURANCES.—Each such application shall also include assurances, satisfactory to the Secretary, that—

"(1) funds received under this part will be used only—

"(A) for programs and projects, including the acquisition of equipment, in accordance with section 1306(b)(1); and

"(B) to coordinate such programs and projects with similar programs and projects within the State and in other States, as well as with other Federal programs that can benefit migratory children and their families;

"(2) such programs and projects will be carried out in a manner consistent with the objectives of section 1114, subsections (b) and (d) of section 1115, section 1120, and subsections (b) and (c) of section 1120A, and part F;

"(3) in the planning and operation of programs and projects at both the State and local operating agency level, there is appropriate consultation with parent advisory councils for programs of one school year in duration, and that all such programs and projects are carried out, to the extent feasible, in a manner consistent with section 1118;

"(4) in planning and carrying out such programs and projects, there has been, and will be, adequate provision for addressing the unmet education needs of preschool migratory children;

"(5) the effectiveness of such programs and projects will be determined, where feasible, using the same approaches and standards that will be used to assess the performance of students, schools, and local educational agencies under part A;

"(6) to the extent feasible, such programs and projects will provide for—

"(A) advocacy and outreach activities for migratory children and their families, including informing such children and families of, or helping such children and families gain access to,

other education, health, nutrition, and social services;

"(B) professional development programs, including mentoring, for teachers and other program personnel;

"(C) family literacy programs, including such programs that use models developed under Even Start;

"(D) the integration of information technology into educational and related programs; and

"(E) programs to facilitate the transition of secondary school students to postsecondary education or employment; and

"(7) the State will assist the Secretary in determining the number of migratory children under section 1303(e), through such procedures as the Secretary may require.

"(d) **PRIORITY FOR SERVICES.**—In providing services with funds received under this part, each recipient of such funds shall give priority to migratory children who are failing, or most at risk of failing, to meet the State's challenging State content standards and challenging State student performance standards, and whose education has been interrupted during the regular school year.

"(e) **CONTINUATION OF SERVICES.**—Notwithstanding any other provision of this part—

"(1) a child who ceases to be a migratory child during a school term shall be eligible for services until the end of such term;

"(2) a child who is no longer a migratory child may continue to receive services for one additional school year, but only if comparable services are not available through other programs; and

"(3) secondary school students who were eligible for services in secondary school may continue to be served through credit accrual programs until graduation.

**SEC. 1305. SECRETARIAL APPROVAL; PEER REVIEW.**

"(a) **SECRETARIAL APPROVAL.**—The Secretary shall approve each State application that meets the requirements of this part.

"(b) **PEER REVIEW.**—The Secretary may review any such application with the assistance and advice of State officials and other individuals with relevant expertise.

**SEC. 1306. COMPREHENSIVE NEEDS ASSESSMENT AND SERVICE-DELIVERY PLAN; AUTHORIZED ACTIVITIES.**

"(a) **COMPREHENSIVE PLAN.**—

"(1) **IN GENERAL.**—Each State that receives assistance under this part shall ensure that the State and its local operating agencies identify and address the special educational needs of migratory children in accordance with a comprehensive State plan that—

"(A) is integrated with other programs under this Act, the Goals 2000: Educate America Act, or other Acts, as appropriate, consistent with section 14306;

"(B) may be submitted as a part of consolidated application under section 14302;

"(C) provides that migratory children will have an opportunity to meet the same challenging State content standards and challenging State student performance standards, set out in such plans, that all children are expected to meet;

"(D) specifies measurable program goals and outcomes;

"(E) encompasses the full range of services that are available for migratory children from appropriate local, State and Federal educational programs;

"(F) is the product of joint planning among such local, State, and Federal programs, including programs under part A, early childhood programs, and bilingual education programs under part A of title VII; and

"(G) provides for the integration of services available under this part with services provided by such other programs.

"(2) **DURATION OF THE PLAN.**—Each such comprehensive State plan shall—

"(A) remain in effect for the duration of the State's participation under this part; and

"(B) be periodically reviewed and revised by the State, as necessary, to reflect changes in the State's strategies and programs under this part.

"(b) **AUTHORIZED ACTIVITIES.**—

"(1) **IN GENERAL.**—In implementing the comprehensive plan described in subsection (a), each local operating agency shall have the flexibility to determine the activities to be provided with funds made available under this part, except that—

"(A) before funds under this part are used to provide services described in subparagraph (B), such funds shall be used to meet the identified needs of migratory children that—

"(i) result from the effects of their migratory lifestyle, or are needed to permit migratory children to participate effectively in school; and

"(ii) are not addressed by services provided under other programs, including programs under part A; and

"(B) all migratory children who are eligible to receive services under part A shall receive such services with funds provided under this part or under part A.

"(2) **CONSTRUCTION.**—Nothing in this part shall be construed to prohibit a local operating agency from serving migrant students simultaneously with students with similar educational needs, in the same educational settings where appropriate.

"(3) **SPECIAL RULE.**—Notwithstanding section 1114, a school that receives funds under this part shall continue to address the identified needs described in paragraph (1)(A).

**SEC. 1307. BYPASS.**

"The Secretary may use all or part of any State's allocation under this part to make arrangements with any public or private nonprofit agency to carry out the purpose of this part in such State if the Secretary determines that—

"(1) the State is unable or unwilling to conduct educational programs for migratory children;

"(2) such arrangements would result in more efficient and economic administration of such programs; or

"(3) such arrangements would add substantially to the welfare or educational attainment of such children.

**SEC. 1308. COORDINATION OF MIGRANT EDUCATION ACTIVITIES.**

"(a) **IMPROVEMENT OF COORDINATION.**—

"(1) **IN GENERAL.**—The Secretary, in consultation with the States, may make grants to, or enter into contracts with, State educational agencies, local educational agencies, institutions of higher education, and other public and private nonprofit entities to improve the interstate and intrastate coordination among such agencies' educational programs, including the establishment or improvement of programs for credit accrual and exchange, available to migratory students.

"(2) **DURATION.**—Grants under this subpart may be awarded for not more than five years.

"(b) **ASSISTANCE AND REPORTING.**—

"(1) **STUDENT RECORDS.**—(A) The Secretary shall solicit information on how student records are transferred from one school to another and shall solicit recommendations on whether new procedures and technologies for record transfer should be employed to better meet the needs of the migrant population.

"(B) The Secretary shall also seek recommendations on the most effective means for determining the number of students or full-time equivalent students in each State for the purpose of allocating funds under this part.

"(2) **REPORT TO CONGRESS.**—(A) Not later than April 30, 1995, the Secretary shall report to the

Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives the Secretary's findings and recommendations, and shall include in this report, recommendations for interim measures that may be taken to ensure continuity of services in this program.

"(B) The Secretary shall assist States in developing effective methods for the transfer of student records and in determining the number of students or full-time equivalent students in each State if such interim measures are required.

"(c) **AVAILABILITY OF FUNDS.**—For the purpose of carrying out this section in any fiscal year, the Secretary shall reserve not more than \$6,000,000 of the amount appropriated to carry out this part for such year.

"(d) **INCENTIVE GRANTS.**—

"(1) **IN GENERAL.**—From the amounts made available to carry out this section, the Secretary shall reserve not more than \$1,500,000 to award, on a competitive basis, grants in the amount of not more than \$250,000 to State educational agencies with consortium agreements under section 1303(d).

"(2) **LIMITATION.**—Not less than 10 of such grants shall be awarded to States which receive allocations of less than \$1,000,000 if such States have approved agreements.

**SEC. 1309. DEFINITIONS.**

"As used in this part:

"(1) **LOCAL OPERATING AGENCY.**—The term 'local operating agency' means—

"(A) a local educational agency to which a State educational agency makes a subgrant under this part;

"(B) a public or nonprofit private agency with which a State educational agency or the Secretary makes an arrangement to carry out a project under this part; or

"(C) a State educational agency, if the State educational agency operates the State's migrant education program or projects directly.

"(2) **MIGRATORY CHILD.**—The term 'migratory child' means a child who is, or whose parent, spouse, or guardian is, a migratory agricultural worker, including a migratory dairy worker, or a migratory fisher, and who, in the preceding 36 months, in order to obtain, or accompany such parent, spouse, or guardian in order to obtain, temporary or seasonal employment in agricultural or fishing work—

"(A) has moved from one school district to another;

"(B) in a State that is comprised of a single school district, has moved from one administrative area to another within such district; or

"(C) resides in a school district of more than 15,000 square miles, and migrates a distance of 20 miles or more to a temporary residence to engage in a fishing activity.

**PART D—PREVENTION AND INTERVENTION PROGRAMS FOR CHILDREN AND YOUTH WHO ARE NEGLECTED, DELINQUENT, OR AT-RISK OF DROPPING OUT**

**SEC. 1401. FINDINGS; PURPOSE; PROGRAM AUTHORIZED.**

"(a) **FINDINGS.**—Congress finds the following:

"(1) A large percentage of youth in the juvenile justice system have poor academic achievement, are a year or more behind grade level, and have dropped out of school.

"(2) There is a strong correlation between academic failure and involvement in delinquent activities.

"(3) Preventing students from dropping out of local schools and addressing the educational needs of delinquent youth can help reduce the dropout rate and involvement in delinquent activities at the same time.

"(4) Many schools and correctional facilities fail to communicate regarding a youth's academic needs and students often return to their

home school ill-prepared to meet current curriculum requirements.

"(5) Schools are often reluctant to deal with youth returning from facilities and receive no funds to deal with the unique educational and other needs of such youth.

"(6) A continuing need exists for activities and programs to reduce the incidence of youth dropping out of school.

"(7) Federal dropout prevention programs have demonstrated effectiveness in keeping children and youth in school.

"(8) Pregnant and parenting teens are a high at-risk group for dropping out of school and should be targeted by dropout prevention programs.

"(9) Such youth need a strong dropout prevention program which provides such youth with high level skills and which provides supports to youth returning from correctional facilities in order to keep such youth in school.

"(b) PURPOSE.—It is the purpose of this part—

"(1) to improve educational services to children in local and State institutions for neglected or delinquent children and youth so that such children and youth have the opportunity to meet the same challenging State content standards and challenging State student performance standards that all children in the State will be expected to meet;

"(2) to provide such children and youth the services needed to make a successful transition from institutionalization to further schooling or employment; and

"(3) to prevent at-risk youth from dropping out of school and to provide dropouts and youth returning from institutions with a support system to ensure their continued education.

"(c) PROGRAM AUTHORIZED.—In order to carry out the purpose of this part the Secretary shall make grants to State educational agencies to enable such agencies to award subgrants to State agencies and local educational agencies to establish or improve programs of education for neglected or delinquent children and youth at risk of dropping out of school before graduation.

**"SEC. 1402. PAYMENTS FOR PROGRAMS UNDER THIS PART.**

"(a) AGENCY SUBGRANTS.—Based on the allocation amount computed under section 1412, the Secretary shall allocate to each State educational agency amounts necessary to make subgrants to State agencies.

"(b) LOCAL SUBGRANTS.—Each State shall retain, for purposes of subpart 2, funds generated throughout the State under part A based on youth residing in local correctional facilities, or attending community day programs for delinquent children and youth.

"(c) USE OF REMAINING FUNDS.—Each State shall use any funds remaining after allocations are made under subsection (a).

**"Subpart 1—State Agency Programs**

**"SEC. 1411. ELIGIBILITY.**

"A State agency is eligible for assistance under this subpart if such State agency is responsible for providing free public education for children—

"(1) in institutions for neglected or delinquent children;

"(2) attending community day programs for neglected or delinquent children; or

"(3) in adult correctional institutions.

**"SEC. 1412. ALLOCATION OF FUNDS.**

"(a) SUBGRANTS TO STATE AGENCIES.—

"(1) IN GENERAL.—Each State agency described in section 1411 (other than an agency in the Commonwealth of Puerto Rico) is eligible to receive a subgrant under this part, for each fiscal year, an amount equal to the product of—

"(A) the number of neglected or delinquent children and youth described in section 1411 who—

"(i) are enrolled for at least 15 hours per week in education programs in adult correctional institutions; and

"(ii) are enrolled for at least 20 hours per week—

"(I) in education programs in institutions for neglected or delinquent children; or

"(II) in community day programs for neglected or delinquent children; and

"(B) 40 percent of the average per-pupil expenditure in the State, except that the amount determined under this paragraph shall not be less than 32 percent, or more than 48 percent, of the average per-pupil expenditure in the United States.

"(2) SPECIAL RULE.—The number of neglected or delinquent children and youth determined under paragraph (1) shall—

"(A) be determined by the State agency by a deadline set by the Secretary, except that no State agency shall be required to determine the number of such children on a specific date set by the Secretary; and

"(B) be adjusted, as the Secretary determines is appropriate, to reflect the relative length of such agency's annual programs.

"(b) SUBGRANTS TO STATE AGENCIES IN PUERTO RICO.—For each fiscal year, the amount of the subgrant for which a State agency in the Commonwealth of Puerto Rico is eligible under this part shall be equal to—

"(1) the number of children and youth counted under subsection (a)(1) for the Commonwealth of Puerto Rico; multiplied by

"(2) the product of—

"(A) the percentage that the average per-pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per-pupil expenditure of any of the 50 States; and

"(B) 32 percent of the average per-pupil expenditure in the United States.

"(c) RATABLE REDUCTIONS IN CASE OF INSUFFICIENT APPROPRIATIONS.—If the amount appropriated for any fiscal year for subgrants under subsections (a) and (b) is insufficient to pay the full amount for which all agencies are eligible under such subsections, the Secretary shall ratably reduce each such amount.

**"SEC. 1413. STATE REALLOCATION OF FUNDS.**

"If a State educational agency determines that a State agency does not need the full amount of the subgrant for which such State agency is eligible under this part for any fiscal year, the State educational agency may reallocate the amount that will not be needed to other eligible State agencies that need additional funds to carry out the purpose of this part, in such amounts as the State educational agency shall determine.

**"SEC. 1414. STATE PLAN AND STATE AGENCY APPLICATIONS.**

"(a) STATE PLAN.—

"(1) IN GENERAL.—Each State educational agency that desires to receive a grant under this part shall submit, for approval by the Secretary, a plan for meeting the needs of neglected and delinquent youth and, where applicable, youth at risk of dropping out of school which is integrated with other programs under this Act, the Goals 2000: Educate America Act, or other Acts, as appropriate, consistent with section 14306.

"(2) CONTENTS.—Each such State plan shall—

"(A) describe the program goals, objectives, and performance measures established by the State that will be used to assess the effectiveness of the program in improving academic and vocational skills of children in the program;

"(B) provide that, to the extent feasible, such children will have the same opportunities to learn as such children would have if such children were in the schools of local educational agencies in the State; and

"(C) contain assurances that the State educational agency will—

"(i) ensure that programs assisted under this part will be carried out in accordance with the State plan described in this subsection;

"(ii) carry out the evaluation requirements of section 1416;

"(iii) ensure that the State agencies receiving subgrants under this subpart comply with all applicable statutory and regulatory requirements; and

"(iv) provide such other information as the Secretary may reasonably require.

"(3) DURATION OF THE PLAN.—Each such State plan shall—

"(A) remain in effect for the duration of the State's participation under this part; and

"(B) be periodically reviewed and revised by the State, as necessary, to reflect changes in the State's strategies and programs under this part.

"(b) SECRETARIAL APPROVAL; PEER REVIEW.—

"(1) IN GENERAL.—The Secretary shall approve each State plan that meets the requirements of this part.

"(2) PEER REVIEW.—The Secretary may review any State plan with the assistance and advice of individuals with relevant expertise.

"(c) STATE AGENCY APPLICATIONS.—Any State agency that desires to receive funds to carry out a program under this part shall submit an application to the State educational agency that—

"(1) describes the procedures to be used, consistent with the State plan under section 1111, to assess the educational needs of the children to be served;

"(2) provides assurances that in making services available to youth in adult correctional facilities, priority will be given to such youth who are likely to complete incarceration within a 2-year period;

"(3) describes the program, including a budget for the first year of the program, with annual updates to be provided to the State educational agency;

"(4) describes how the program will meet the goals and objectives of the State plan under this subpart;

"(5) describes how the State agency will consult with experts and provide the necessary training for appropriate staff, to ensure that the planning and operation of institution-wide projects under section 1416 are of high quality;

"(6) describes how the agency will carry out the evaluation requirements of section 14701 and how the results of the most recent evaluation are used to plan and improve the program;

"(7) includes data showing that the agency has maintained fiscal effort required of a local educational agency, in accordance with section 14501 of this title;

"(8) describes how the programs will be coordinated with other appropriate State and Federal programs, such as programs under the Job Training Partnership Act, vocational education programs, State and local dropout prevention programs, and special education programs;

"(9) describes how appropriate professional development will be provided to teachers and other staff;

"(10) designates an individual in each affected institution to be responsible for issues relating to the transition of children and youth from the institution to locally operated programs;

"(11) describes how the agency will, endeavor to coordinate with businesses for training and mentoring for participating youth;

"(12) provides assurances that the agency will assist in locating alternative programs through which students can continue their education if students are not returning to school after leaving the correctional facility;

"(13) provides assurances that the agency will work with parents to secure parents' assistance in improving the educational achievement of their children and preventing their children's further involvement in delinquent activities;

"(14) provides assurances that the agency works with special education youth in order to meet an existing individualized education program and an assurance that the agency will notify the youth's local school if such youth—

"(A) is identified as in need of special education services while the youth is in the facility; and

"(B) intends to return to the local school;

"(15) provides assurances that the agency will work with youth who dropped out of school before entering the facility to encourage the youth to reenter school once the term of the youth has been completed or provide the youth with the skills necessary to gain employment, continue the education of the youth, or achieve a secondary school diploma or the recognized equivalent if the youth does not intend to return to school;

"(16) provides assurances that teachers and other qualified staff are also trained to work with children with disabilities and other students with special needs taking into consideration the unique needs of such students;

"(17) describes any additional services provided to youth, such as career counseling, and assistance in securing student loans and grants; and

"(18) provides assurances that the program under this subpart will be coordinated with any programs operated under the Juvenile Justice and Delinquency Prevention Act of 1974 or other comparable programs, if applicable.

#### "SEC. 1415. USE OF FUNDS.

"(a) IN GENERAL.—

"(1) USES.—A State agency shall use funds received under this subpart only for programs and projects that—

"(A) are consistent with the State plan under section 1414(a); and

"(B) concentrate on providing participants with the knowledge and skills needed to make a successful transition to secondary school completion, further education, or employment.

"(2) PROGRAMS AND PROJECTS.—Such programs and projects—

"(A) may include the acquisition of equipment;

"(B) shall be designed to support educational services that—

"(i) except for institution-wide projects under section 1416, are provided to children identified by the State agency as failing, or most at risk of failing, to meet the State's challenging State content standards and challenging State student performance standards;

"(ii) supplement and improve the quality of the educational services provided to such children by the State agency; and

"(iii) afford such children an opportunity to learn to such challenging State standards;

"(C) shall be carried out in a manner consistent with section 1120A and part F of this title; and

"(D) may include the costs of meeting the evaluation requirements of section 14701.

"(b) SUPPLEMENT, NOT SUPPLANT.—A program under this subpart that supplements the number of hours of instruction students receive from State and local sources shall be considered to comply with the supplement, not supplant requirement of section 1120A without regard to the subject areas in which instruction is given during those hours.

#### "SEC. 1416. INSTITUTION-WIDE PROJECTS.

"A State agency that provides free public education for children and youth in an institution for neglected or delinquent children (other than an adult correctional institution) or attending a community-day program for such children may use funds received under this part to serve all children in, and upgrade the entire educational effort of, that institution or program if the State agency has developed, and the State educational agency has approved, a comprehensive plan for that institution or program that—

"(1) provides for a comprehensive assessment of the educational needs of all youth in the institution or program serving juveniles;

"(2) provides for a comprehensive assessment of the educational needs of youth aged 20 and younger in adult facilities who are expected to complete incarceration within a two-year period;

"(3) describes the steps the State agency has taken, or will take, to provide all children under age 21 with the opportunity to meet challenging State content standards and challenging State student performance standards in order to improve the likelihood that the students will complete secondary school, attain secondary diploma or its recognized equivalent, or find employment after leaving the institution;

"(4) describes the instructional program, pupil services, and procedures that will be used to meet the needs described in paragraph (1), including, to the extent feasible, the provision of mentors for students;

"(5) specifically describes how such funds will be used;

"(6) describes the measures and procedures that will be used to assess student progress;

"(7) describes how the agency has planned, and will implement and evaluate, the institution-wide or program-wide project in consultation with personnel providing direct instructional services and support services in institutions or community-day programs for neglected or delinquent children and personnel from the State educational agency; and

"(8) includes an assurance that the State agency has provided for appropriate training for teachers and other instructional and administrative personnel to enable such teachers and personnel to carry out the project effectively.

#### "SEC. 1417. THREE-YEAR PROGRAMS OR PROJECTS.

"If a State agency operates a program or project under this subpart in which individual children are likely to participate for more than one year, the State educational agency may approve the State agency's application for a subgrant under this part for a period of not more than three years.

#### "SEC. 1418. TRANSITION SERVICES.

"(a) TRANSITION SERVICES.—Each State agency shall reserve not more than 10 percent of the amount such agency receives under this subpart for any fiscal year to support projects that facilitate the transition of children from State-operated institutions to local educational agencies.

"(b) CONDUCT OF PROJECTS.—A project supported under this section may be conducted directly by the State agency, or through a contract or other arrangement with one or more local educational agencies, other public agencies, or private nonprofit organizations.

"(c) LIMITATION.—Any funds reserved under subsection (a) shall be used only to provide transitional educational services, which may include pupil services and mentoring, to neglected and delinquent children in schools other than State-operated institutions.

"(d) CONSTRUCTION.—Nothing in this section shall be construed to prohibit a school that receives funds under subsection (a) from serving neglected and delinquent children simultaneously with students with similar educational needs, in the same educational settings where appropriate.

#### "Subpart 2—Local Agency Programs

##### "SEC. 1421. PURPOSE.

"The purpose of this subpart is to support the operation of local educational agency programs which involve collaboration with locally operated correctional facilities to—

"(1) carry out high quality education programs to prepare youth for secondary school completion, training, and employment, or further education;

"(2) provide activities to facilitate the transition of such youth from the correctional program to further education or employment; and

"(3) operate dropout prevention programs in local schools for youth at risk of dropping out of school and youth returning from correctional facilities.

#### "SEC. 1422. PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES.

"(a) LOCAL SUBGRANTS.—With funds retained made available under section 1402(b), the State educational agency shall award subgrants to local educational agencies with high numbers or percentages of youth residing in locally operated (including county operated) correctional facilities for youth (including facilities involved in day programs).

"(b) SPECIAL RULE.—A local educational agency which includes a correctional facility that operates a school is not required to operate a dropout prevention program if more than 30 percent of the youth attending such facility will reside outside the boundaries of the local educational agency upon leaving such facility.

"(c) NOTIFICATION.—A State educational agency shall notify local educational agencies within the State of the eligibility of such agencies to receive a subgrant under this subpart.

#### "SEC. 1423. LOCAL EDUCATIONAL AGENCY APPLICATIONS.

"Eligible local educational agencies desiring assistance under this section shall submit an application to the State educational agency, containing such information as the State educational agency may require. Each such application shall include—

"(1) a description of the program to be assisted;

"(2) a description of formal agreements between—

"(A) the local educational agency; and

"(B) correctional facilities and alternative school programs serving youth involved with the juvenile justice system to operate programs for delinquent youth;

"(3) as appropriate, a description of how participating schools will coordinate with facilities working with delinquent youth to ensure that such youth are participating in an education program comparable to one operating in the local school such youth would attend;

"(4) as appropriate, a description of the dropout prevention program operated by participating schools and the types of services such schools will provide to at risk youth in participating schools and youth returning from correctional facilities;

"(5) as appropriate, a description of the youth expected to be served by the dropout prevention program and how the school will be coordinating existing educational programs to meet unique education needs;

"(6) as appropriate, a description of how schools will coordinate with existing social and health services to meet the needs of students at risk of dropping out of school and other participating students, including prenatal health care and nutrition services related to the health of the parent and child, parenting and child development classes, child care, targeted re-entry and outreach programs, referrals to community resources, and scheduling flexibility;

"(7) as appropriate, a description of any partnerships with local businesses to develop training and mentoring services for participating students;

"(8) as appropriate, a description of how the program will involve parents in efforts to improve the educational achievement of their children, assist in dropout prevention activities, and prevent the involvement of their children in delinquent activities;

"(9) a description of how the program under this subpart will be coordinated with other Federal, State, and local programs, such as programs under the Job Training and Partnership

Act and vocational education programs serving this at-risk population of youth;

"(10) a description of how the program will be coordinated with programs operated under the Juvenile Justice and Delinquency Prevention Act of 1974 and other comparable programs, if applicable;

"(11) as appropriate, a description of how schools will work with probation officers to assist in meeting the needs of youth returning from correctional facilities;

"(12) a description of efforts participating schools will make to ensure correctional facilities working with youth are aware of a child's existing individualized education program; and

"(13) as appropriate, a description of the steps participating schools will take to find alternative placements for youth interested in continuing their education but unable to participate in a regular public school program.

**"SEC. 1424. USES OF FUNDS.**

"Funds provided to local educational agencies under this subpart may be used, where appropriate, for—

"(1) dropout prevention programs which serve youth at educational risk, including pregnant and parenting teens, youth who have come in contact with the juvenile justice system, youth at least one year behind their expected grade level, migrant youth, immigrant youth, students with limited-English proficiency and gang members;

"(2) the coordination of health and social services for such individuals if there is a likelihood that the provision of such services, including day care and drug and alcohol counseling, will improve the likelihood such individuals will complete their education; and

"(3) programs to meet the unique education needs of youth at risk of dropping out of school, which may include vocational education, special education, career counseling, and assistance in securing student loans or grants.

**"SEC. 1425. PROGRAM REQUIREMENTS FOR CORRECTIONAL FACILITIES RECEIVING FUNDS UNDER THIS SECTION.**

"Each correctional facility entering into an agreement with a local educational agency under section 1422(a) to provide services to youth under this section shall—

"(1) where feasible, ensure educational programs in juvenile facilities are coordinated with the student's home school, particularly with respect to special education students with an individualized education program;

"(2) notify the local school of a youth if the youth is identified as in need of special education services while in the facility;

"(3) where feasible, provide transition assistance to help the youth stay in school, including coordination of services for the family, counseling, assistance in accessing drug and alcohol abuse prevention programs, tutoring, and family counseling;

"(4) provide support programs which encourage youth who have dropped out to reenter school once their term has been completed or provide such youth with the skills necessary for such youth to gain employment or seek a secondary school diploma or its recognized equivalent;

"(5) work to ensure such facilities are staffed with teachers and other qualified staff who are trained to work with children with disabilities and other students with special needs taking into consideration the unique needs of such children and students;

"(6) ensure educational programs in correctional facilities are related to assisting students meet high educational standards;

"(7) use, to the extent possible, technology to assist in coordinating educational programs between the juvenile facility and the community school;

"(8) where feasible, involve parents in efforts to improve the educational achievement of their children and prevent the further involvement of such children in delinquent activities;

"(9) coordinate funds received under this program with other local, State, and Federal funds available to provide services to participating youth, such as funds under the Job Training Partnership Act, and vocational education funds;

"(10) coordinate programs operated under this subpart with activities funded under the Juvenile Justice and Delinquency Prevention Act of 1974 and other comparable programs, if applicable; and

"(11) if appropriate, work with local businesses to develop training and mentoring programs for participating youth.

**"SEC. 1426. ACCOUNTABILITY.**

"The State educational agency may—

"(1) reduce or terminate funding for projects under this section if a local educational agency does not show progress in reducing dropout rates for male students and for female students over a 3-year period; and

"(2) require juvenile facilities to demonstrate, after receiving assistance under this subpart for 3 years, that there has been an increase in the number of youth returning to school, obtaining a secondary school diploma or its recognized equivalent, or obtaining employment after such youth are released.

**"Subpart 3—General Provisions**

**"SEC. 1431. PROGRAM EVALUATIONS.**

"(a) SCOPE OF EVALUATION.—Each State agency or local educational agency that conducts a program under subpart 1 or 2 shall evaluate the program, disaggregating data on participation by sex, and if feasible, by race, ethnicity, and age, not less than once every three years to determine the program's impact on the ability of participants to—

"(1) maintain and improve educational achievement;

"(2) accrue school credits that meet State requirements for grade promotion and secondary school graduation;

"(3) make the transition to a regular program or other education program operated by a local educational agency; and

"(4) complete secondary school (or secondary school equivalency requirements) and obtain employment after leaving the institution.

"(b) EVALUATION MEASURES.—In conducting each evaluation under subsection (a), a State agency or local educational agency shall use multiple and appropriate measures of student progress.

"(c) EVALUATION RESULTS.—Each State agency and local educational agency shall—

"(1) submit evaluation results to the State educational agency; and

"(2) use the results of evaluations under this section to plan and improve subsequent programs for participating children and youth.

**"SEC. 1432. DEFINITIONS.**

"For the purpose of this part:

"(1) The term 'adult correctional institution' means a facility in which persons are confined as a result of a conviction for a criminal offense, including persons under 21 years of age.

"(2) The term 'at-risk youth' means school aged youth who are at risk of academic failure, have drug or alcohol problems, are pregnant or are parents, have come into contact with the juvenile justice system in the past, are at least one year behind the expected grade level for the age of the youth, have limited-English proficiency, are gang members, have dropped out of school in the past, or have high absenteeism rates at school.

"(3) The term 'community day program' means a regular program of instruction provided

by a State agency at a community day school operated specifically for neglected or delinquent children.

"(4) The term 'institution for delinquent children and youth' means a public or private residential facility for the care of children who have been adjudicated to be delinquent or in need of supervision.

"(5) The term 'institution for neglected children' means a public or private residential facility, other than a foster home, that is operated for the care of children who have been committed to the institution or voluntarily placed in the institution under applicable State law, due to abandonment, neglect, or death of their parents or guardians.

**"PART E—FEDERAL EVALUATIONS, DEMONSTRATIONS, AND TRANSITION PROJECTS**

**"SEC. 1501. EVALUATIONS.**

"(a) NATIONAL ASSESSMENT.—

"(1) IN GENERAL.—The Secretary shall conduct a national assessment of programs assisted under this title, in coordination with the ongoing National Evaluation under subsection (b) that shall be planned, reviewed, and conducted in consultation with an independent panel of researchers, State practitioners, local practitioners, and other appropriate individuals.

"(2) EXAMINATION.—The assessment shall examine how well schools, local educational agencies, and States are—

"(A) progressing toward the goal of all children served under this title reaching the State's challenging State content standards and challenging State student performance standards; and

"(B) accomplishing the purpose set forth in section 1001(d) to achieve the goal described in paragraph (1), including—

"(i) ensuring challenging State content standards and challenging State student performance standards for all children served under this title and aligning the efforts of States, local educational agencies, and schools to help such children reach such standards;

"(ii) providing children served under this title an enriched and accelerated educational program through schoolwide programs or through additional services that increase the amount and quality of instructional time that such children receive;

"(iii) promoting schoolwide reform and access for all children served under this title to effective instructional strategies and challenging academic content;

"(iv) significantly upgrading the quality of the curriculum and instruction by providing staff in participating schools with substantial opportunities for professional development;

"(v) using and evaluating the usefulness of opportunity-to-learn standards or strategies in improving learning in schools receiving assistance under this part;

"(vi) coordinating services provided under all parts of this title with each other, with other educational and pupil services, including preschool services, and, to the extent feasible, with health and social service programs funded from other sources;

"(vii) affording parents of children served under this title meaningful opportunities to participate in the education of their children at home and at school, such as the provision of family literacy services;

"(viii) distributing resources to areas where needs are greatest;

"(ix) improving accountability, as well as teaching and learning, by making assessments under this title congruent with State assessment systems; and

"(x) providing greater decisionmaking authority and flexibility to schools in exchange for greater responsibility for student performance.

"(3) NAEP INFORMATION.—Where feasible, the Secretary shall use information gathered from a variety of sources, including the National Assessment of Educational Progress, State evaluations, and available research studies, in carrying out this subsection.

"(4) INTERIM AND FINAL REPORTS.—The Secretary shall submit to the President and the appropriate committees of the Congress an interim report by January 1, 1996, summarizing the preliminary findings of the assessment and a final report of the findings of the assessment by January 1, 1998.

"(b) STUDIES AND DATA COLLECTION.—

"(1) IN GENERAL.—The Secretary may collect such data, as necessary, at the State, local, and school levels and conduct studies and evaluations, including national studies and evaluations, to assess on an ongoing basis the effectiveness of programs under this title and to report on such effectiveness on a periodic basis. The Secretary shall report not later than December 31, 1997 to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate on how schoolwide programs are meeting the needs of children from migratory families.

"(2) MINIMUM INFORMATION.—At a minimum, the Secretary shall collect trend information on the effect of programs under this title. Such data shall complement the data collected and reported under subsections (a) and (c).

"(c) NATIONAL EVALUATION OF PART A OF TITLE I.—

"(1) IN GENERAL.—The Secretary shall carry out an ongoing evaluation of the program assisted under part A of title I in order to provide the public, the Congress, and educators involved in such program, an accurate description of the short- and long-term effectiveness of such program and to provide information that can be used to improve such program's effectiveness in enabling students to meet challenging State content standards and challenging State student performance standards, graduate from secondary school, and make successful transitions to postsecondary education and work. Such evaluation shall—

"(A) have a longitudinal design that tracks cohorts of students within schools of differing poverty concentrations for at least three years which, when the cohorts are taken as a whole, provides a picture of such program's effectiveness over the elementary and secondary grades;

"(B) be separate and independent from State and local assessments and evaluations as required under this title;

"(C) utilize the highest available content standards that are generally accepted as national in scope;

"(D) provide information on all students, students served under part A, and, if funds are sufficient, information on students from low-income families, limited-English-proficient students, and students with disabilities; and

"(E) when feasible, collect, cross-tabulate, and report data by sex within race or ethnicity and socioeconomic status.

"(2) USE.—The Secretary shall use the results of the evaluation described in paragraph (1) as part of the national assessment required by subsection (a) and shall report the data from such evaluation to the Congress and the public at least as frequently as reports are made under subsection (a)(4).

"(d) DEVELOPMENTALLY APPROPRIATE MEASURES.—In conducting the national assessment under subsection (a) and the national ongoing evaluation under subsection (c), the Secretary shall use developmentally appropriate measures to assess student performance and progress.

"(e) PARENTAL INVOLVEMENT, STUDY, REPORT AND DISSEMINATION.—

"(1) IN GENERAL.—The Secretary, through the Office of Education Research and Improvement, shall conduct a study to identify and describe—

"(A) common barriers to effective parental involvement in the education of participating children; and

"(B) successful local policies and programs which improve parental involvement and the performance of participating children.

"(2) DUTIES OF SECRETARY.—The Secretary shall—

"(A) complete such study by December 31, 1996;

"(B) report the findings of such study to the Committee on Education and Labor of the House of Representatives and to the Committee on Labor and Human Resources of the Senate; and

"(C) disseminate the findings, relating to the successful local policies and programs which improve parental involvement and the performance of participating children, to local educational agencies.

"SEC. 1502. DEMONSTRATIONS OF INNOVATIVE PRACTICES.

"(a) DEMONSTRATION PROGRAMS TO IMPROVE ACHIEVEMENT.—

"(1) IN GENERAL.—From the funds appropriated for any fiscal year under section 1002(g)(2), the Secretary may make grants to State educational agencies, local educational agencies, other public agencies, nonprofit organizations, public or private partnerships involving business and industry organizations, and consortia of such entities to carry out demonstration projects that show the most promise of enabling children served under this title to meet challenging State content standards and challenging State student performance standards. Such projects shall include promising strategies such as—

"(A) accelerated curricula, the application of new technologies to improve teaching and learning, extended learning time, and a safe and enriched full-day environment for children to provide children the opportunity to reach such standards;

"(B) integration of education services with each other and with health, family, and other social services such as mentoring programs, particularly in empowerment zones and enterprise communities;

"(C) effective approaches to whole school reform;

"(D) programs that have been especially effective with limited-English-proficient children, migratory children and other highly mobile students, children leaving institutions for neglected or delinquent children and returning to school, and homeless children and youth;

"(E) programs which are especially effective in recruiting, inducting and retaining highly qualified teachers for service in schools with low student achievement; and

"(F) programs that are built upon partnerships developed between elementary and middle schools, employers, and the community, which emphasize the integration of high quality academic and vocational learning, stress excellence and high expectations for success in academic subjects, instill responsibility, decisionmaking, problem solving, interpersonal skills, and other competencies in students, and make school relevant to the workplace and the community, through applied and interactive teaching methodologies, team teaching strategies, learning opportunities connecting school, the workplace, and the community, and career exploration, awareness, and career guidance opportunities.

"(2) EVALUATION.—The Secretary shall evaluate the demonstration projects supported under this title, using rigorous methodological designs and techniques, including control groups and random assignment, to the extent feasible, to produce reliable evidence of effectiveness.

"(b) PARTNERSHIPS.—From funds appropriated under section 1002(g)(2) for any fiscal year, the Secretary may, directly or through grants or contracts, work in partnership with State educational agencies, local educational agencies, other public agencies, and nonprofit organizations to disseminate and use the highest quality research and knowledge about effective practices to improve the quality of teaching and learning in schools assisted under this title.

"SEC. 1503. INNOVATIVE ELEMENTARY SCHOOL TRANSITION PROJECTS.

"(a) IN GENERAL.—From the amount appropriated under section 1002(g)(2), the Secretary shall provide not less than \$10,000,000, but not more than \$40,000,000 to support innovative transition projects in elementary schools authorized under this section.

"(b) GRANTS.—

"(1) LOCAL PROGRAMS.—The Secretary shall award grants to local educational agencies (including such agencies that operate Follow Through programs, Even Start, and other comparable programs) that have formed consortia with early childhood programs (including Head Start, where available) for the purpose of supporting projects, for children from low-income families who previously attended a Head Start program, Even Start program, or similar preschool program, which provide education and other services in early elementary grades.

"(2) PURPOSES OF PROJECTS.—The purposes of projects assisted under this section are to—

"(A) assist eligible children and their families in making a successful transition from preschool through the early elementary grades;

"(B) enable eligible children to achieve challenging academic standards through a model, developmentally appropriate, instructional program; and

"(C) support the active involvement of parents in the education of their children.

"(3) COMPONENTS.—A program assisted under this subsection—

"(A) shall provide transition to elementary school activities, such as—

"(i) development of a transition plan for each child which provides for instruction, support, and assistance through the third grade;

"(ii) transfer of each child's preschool records to the elementary school (with parental consent);

"(iii) formal meetings between a child's parent, preschool teacher, and kindergarten or first grade teacher; and

"(iv) kindergarten visits and other orientation activities for preschool children prior to enrollment in elementary school;

"(B) shall use an instructional approach which—

"(i) has been shown to be effective in providing transition services; or

"(ii) shows promise of providing effective transition services;

"(C) shall provide for the direct participation of the parents of such children in the development, operation, and evaluation of such program;

"(D) shall provide directly or through referral comprehensive educational, health, nutritional, social, and other services that aid in the continued development of eligible children to their full potential;

"(E) shall ensure that each supportive services team developed pursuant to subsection (c)(8) includes a sufficient number of family service coordinators to adequately meet the needs of eligible children and their families; and

"(F) may provide for the use of mentors who are secondary school students to assist elementary and secondary students who were formerly enrolled in Head Start or Even Start programs.

"(c) APPLICATIONS.—An application for a grant under subsection (b) shall—

"(1) describe the goals which the applicant plans to achieve;

"(2) describe the instructional approach the applicant will use, and the manner in which the applicant will implement such approach;

"(3) describe the transition to elementary school activities for which assistance is sought;

"(4) describe the members of the consortium required by subsection (b)(1);

"(5) shall include evidence that the consortium members each have performed assessments of their programs to ensure that such members have the capacity to address the health, immunization, mental health, nutrition, parenting education, literacy, social service (including substance abuse, education, and prevention), and educational needs of low-income students and their families whom the consortium members plan to serve;

"(6) describe how the project will be coordinated with title I, title VII, and other programs under this Act;

"(7) provide evidence that the proposed transition activities, instruction, and other services to be provided by the applicant have been specifically designed to build upon, and coordinate with, the services provided to eligible children and their parents by local Head Start, Even Start, and other similar preschool programs;

"(8) include—

"(A) a plan for the development of a support services team, including a family service coordinator, to—

"(i) assist families, administrators, and teachers to respond to health, immunization, mental health, nutrition, social service, and educational needs of eligible students;

"(ii) conduct home visits and help students and their families to obtain health, immunization, mental health, nutrition, parenting education, literacy, education (including tutoring and remedial services), and social services (including substance abuse treatment, education, and prevention), for which students and their families are eligible;

"(iii) coordinate a family outreach and support program, including a plan for involving parents in the management of the program under subsection (b), in cooperation with parental involvement efforts undertaken pursuant to this part, the Head Start Act, and the Individuals with Disabilities Education Act, including school-parent compacts, parent volunteer activities, parent education services and training such as the services and training provided through the Even Start program, and regular meetings; and

"(iv) assist families, administrators, and teachers in enhancing developmental continuity between the programs assisted under the Head Start Act, other early childhood development programs, and elementary school classes; or

"(B) a description of the comprehensive, coordinated services currently provided to children eligible for services under this section;

"(9) designate a member of the support services team described in paragraph (8) who will serve as the supervisor of such support services team;

"(10) contain assurances that State agencies, local agencies, and community-based organizations that provide support services to low-income students served by the local educational agency consortium have been consulted in the preparation of the plan described in paragraph (8);

"(11) contain assurances that State agencies, local agencies, and community-based organizations that provide support services to low-income students served by the local educational agency consortium will designate an individual who will act as a liaison to the support services team described in paragraph (8);

"(12) describe the target population to be served by the support services team described in

paragraph (8), including families previously served under part C of the Head Start Act, or other comparable early childhood development program;

"(13) describe the support services to be provided, directly or through referral;

"(14) describe the Federal and non-Federal resources that will be used to carry out the program;

"(15) contain assurances that the support services described in paragraph (8) will be equipped to assist children and families with limited-English proficiency or with disabilities;

"(16) include a plan describing how the program assisted under this section will be sustained, with funding received under part A or other Federal and non-Federal funding sources, after the grant has expired; and

"(17) contain such other information as the Secretary may reasonably require.

"(d) NATIONAL ACTIVITIES.—

"(1) IN GENERAL.—Of the amount provided under subsection (a) to carry out this section, the Secretary shall use not less than \$3,000,000 but not more \$5,000,000 to carry out national activities to evaluate and improve the use of innovative transition programs.

"(2) TECHNICAL ASSISTANCE AND TRAINING.—Of the amount reserved under paragraph (1), the Secretary shall use not less than \$3,000,000 to award grants to public and private nonprofit agencies, institutions, and organizations to provide to consortia which receive grants under subsection (b)(1) and, to the extent feasible, to schools that are designated schoolwide programs under section 1114—

"(A) technical assistance in the implementation and expanded use of model transition and instructional approaches, including the use of appropriate pedagogy, efforts to increase parental involvement and providing access to coordinated services; and

"(B) training in conjunction with the implementation and operation of such model approaches.

"(3) COORDINATION AND DISSEMINATION.—The Secretary, in cooperation with the Secretary of Health and Human Services, may promote coordination of activities assisted under this section with the projects funded under the Head Start Transition Projects Act, including a process to—

"(A) collect information on program activities and results; and

"(B) disseminate information on successful transition programs.

"(4) EVALUATION.—(A) The Secretary, in cooperation with the Secretary of Health and Human Services, is authorized to award grants, or enter into contracts or cooperative agreements, to provide for the evaluation of the programs assisted under this section.

"(B) To the extent practicable, such evaluations shall be conducted jointly with evaluations of Head Start Transition Projects.

"(5) OTHER ACTIVITIES.—The Secretary may undertake other activities to promote the replication of successful transition programs.

"(e) COORDINATION OF REGULATIONS.—The Secretary shall work with the Secretary of Health and Human Services to coordinate regulations promulgated under this section with regulations promulgated under the Head Start Act Amendments of 1994.

"(f) GENERAL PROVISIONS.—

"(1) PRIORITY.—In awarding grants under subsection (b)(1), the Secretary shall give priority to applicants that—

"(A) will operate a project under this section at a school designated as a schoolwide program under section 1114;

"(B) serve local educational agencies that have the highest numbers or percentages of poor children; and

"(C) demonstrate a significant commitment by the community to the proposed program, as evidenced by the level of resources, both cash and in-kind, from other public and private sources available to the consortium.

"(2) SUPPLEMENT.—An application for assistance under this section may not be approved unless the Secretary is satisfied that the services to be provided by the applicant will supplement, and not supplant, services that previously provided other Federal assistance.

"(3) SUFFICIENT SIZE.—A grant under subsection (b)(1) shall be of sufficient size and scope to enable the grantee to operate a project which meets the requirements of this section.

"(4) URBAN AND RURAL GRANTS.—To the extent practicable, the Secretary shall award grants under subsection (b)(1) to consortia in both urban and rural areas.

"(5) RENEWAL GRANT.—To be eligible to renew a grant under the section, an applicant that received assistance under subsection (b)(1) shall demonstrate that the project achieved the purposes described in subsection (b)(2).

"(g) DEFINITIONS.—As used in this section:

"(1) FAMILY SERVICES COORDINATOR.—The term 'family services coordinator' means an individual who has the skills necessary to assist families in obtaining support services and may be an existing employee of a local educational agency or Head Start agency.

"(2) HEAD START AGENCY.—The term 'Head Start agency' means any agency designated as a Head Start agency under the Head Start Act (42 U.S.C. 9831 et seq.).

"(3) SUPPORT SERVICES.—The term 'support services' means services that enhance the physical, social, emotional, and intellectual development of low-income children, including the provision of necessary support to the parents and other family members of such children.

#### "PART F—GENERAL PROVISIONS

##### "SEC. 1601. FEDERAL REGULATIONS.

"(a) IN GENERAL.—The Secretary is authorized to issue such regulations as are necessary to reasonably ensure that there is compliance with this title.

"(b) NEGOTIATED RULEMAKING PROCESS.—

"(1) IN GENERAL.—Prior to publishing in the Federal Register proposed regulations to carry out this title, the Secretary shall obtain the advice and recommendations of representatives of Federal, State, and local administrators, parents, teachers, and members of local boards of education involved with the implementation and operation of programs under this title.

"(2) MEETINGS AND ELECTRONIC EXCHANGE.—Such advice and recommendation may be obtained through such mechanisms as regional meetings and electronic exchanges of information.

"(3) PROPOSED REGULATIONS.—After obtaining such advice and recommendations, and prior to publishing proposed regulations, the Secretary shall—

"(A) establish a negotiated rulemaking process on a minimum of two key issues, including—

"(i) schoolwide programs; and

"(ii) standards and assessment;

"(B) select individuals to participate in such process from among individuals or groups which provided advice and recommendations, including representation from all geographic regions of the United States; and

"(C) prepare a draft of proposed policy options that shall be provided to the individuals selected by the Secretary under subparagraph (A) not less than 15 days prior to the first meeting under such process.

"(4) PROCESS.—Such process—

"(A) shall be conducted in a timely manner to ensure that final regulations are issued by the Secretary not later than July 1, 1995; and

"(B) shall not be subject to the Federal Advisory Committee Act but shall otherwise follow

the provisions of the Negotiated Rulemaking Act of 1990 (5 U.S.C. 561 et seq.).

"(5) EMERGENCY SITUATION.—In an emergency situation in which regulations to carry out this title must be issued with a very limited time to assist State and local educational agencies with the operation of a program under this title, the Secretary may issue proposed regulations without following such process but shall, immediately thereafter and prior to issuing final regulations, conduct regional meetings to review such proposed regulations.

"(c) LIMITATION.—Regulations to carry out this part may not require local programs to follow a particular instructional model, such as the provision of services outside the regular classroom or school program.

**"SEC. 1602. COORDINATION OF FEDERAL, STATE, AND LOCAL ADMINISTRATION.**

"(a) PROGRAM ASSISTANCE MANUAL.—The Secretary shall, not later than six months after the publication of final regulations under this title, prepare and distribute to State educational agencies, State agencies operating programs under parts C and D, and local educational agencies, and shall make available to parents and other interested individuals, organizations, and agencies, a manual for this title to—

"(1) assist such agencies in—

"(A) enhancing the quality, increasing the depth, or broadening the scope of activities for programs under this title;

"(B) applying for program funds under this title; and

"(C) meeting the program objectives under this title;

"(2) assist State educational agencies in achieving proper and efficient administration of programs funded under this title;

"(3) assist parents to become involved in the planning for, and implementation and evaluation of, programs and projects under this title; and

"(4) ensure that officers and employees of the Department, including officers and employees of the Secretary and officers and employees of the Department charged with auditing programs carried on under this title, uniformly interpret, apply, and enforce requirements under this title throughout the United States.

"(b) CONTENTS OF POLICY MANUAL.—The policy manual shall, with respect to programs carried out under this title, contain descriptions, statements, procedural and substantive rules, opinions, policy statements and interpretations and indices to and amendments of the foregoing, and in particular, whether or not such descriptions, statements, procedural and substantive rules, opinions, policy statements and interpretations and indices are required under section 552 of title 5, United States Code, to be published or made available. The manual shall include—

"(1) a statement of the requirements applicable to the programs carried out under this title, including such requirements contained in this title, the General Education Provisions Act, other applicable statutes, and regulations issued under the authority of such statutes;

"(2) an explanation of the purpose of each requirement and its interrelationship with other applicable requirements; and

"(3) model forms and instructions developed by the Secretary for use by State and local educational agencies, at the discretion of such agencies, including, application forms, application review checklists, and instruments for monitoring programs under this title.

"(c) RESPONSE TO INQUIRIES.—The Secretary shall respond with written guidance not later than 90 days after any written request (return receipt requested) from a State or local educational agency regarding a policy, question, or interpretation under this title is received. In the

case of a request from a local educational agency, such agency is required to address its request to the State educational agency first.

**"SEC. 1603. STATE ADMINISTRATION.**

**"(a) RULEMAKING.—**

"(1) IN GENERAL.—Each State that receives funds under this title shall—

"(A) ensure that any State rules, regulations, and policies relating to this title conform to the purposes of this title and provide any such proposed rules, regulations, and policies to the committee of practitioners under subsection (b) for their review and comment;

"(B) minimize such rules, regulations, and policies to which their local educational agencies and schools are subject; and

"(C) identify any such rule, regulation, or policy as a State-imposed requirement.

"(2) SUPPORT AND FACILITATION.—State rules, regulations, and policies under this title shall support and facilitate local educational agency and school-level systemic reform designed to enable all children to meet the challenging State content standards and challenging State student performance standards.

**"(b) COMMITTEE OF PRACTITIONERS.—**

"(1) IN GENERAL.—Each State educational agency shall create a State committee of practitioners to advise the State in carrying out its responsibilities under this title.

"(2) MEMBERSHIP.—Each such committee shall include—

"(A) as a majority of its members, representatives from local educational agencies;

"(B) administrators;

"(C) teachers, including vocational educators;

"(D) parents;

"(E) members of local boards of education;

"(F) representatives of private school children; and

"(G) pupil services personnel.

"(3) DUTIES.—The duties of such committee shall include a review, prior to publication, of any proposed or final State rule or regulation pursuant to this title. In an emergency situation where such rule or regulation must be issued within a very limited time to assist local educational agencies with the operation of the program under this title, the State educational agency may issue a regulation without prior consultation, but shall immediately thereafter convene the State committee of practitioners to review the emergency regulation prior to issuance in final form.

"(c) PAYMENT FOR STATE ADMINISTRATION.—Each State may reserve for the proper and efficient performance of its duties under this title the greater of—

"(1) 1.00 percent of the funds received under subsections (a), (c), and (d) of section 1002; or

"(2) \$400,000, or \$50,000 in the case of the outlying areas.

**"SEC. 1604. CONSTRUCTION.**

"(a) PROHIBITION OF FEDERAL MANDATES, DIRECTION OR CONTROL.—Nothing in this title shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's specific instructional content or pupil performance standards and assessments, curriculum, or program of instruction as a condition of eligibility to receive funds under this title.

"(b) EQUALIZED SPENDING.—Nothing in this title shall be construed to mandate equalized spending per pupil for a State, local educational agency, or school.

"(c) BUILDING STANDARDS.—Nothing in this title shall be construed to mandate national school building standards for a State, local educational agency, or school.

**"TITLE II—DWIGHT D. EISENHOWER PROFESSIONAL DEVELOPMENT PROGRAM**

**"SEC. 2001. FINDINGS.**

"The Congress finds as follows:

"(1) Reaching the National Education Goals, particularly the third, fourth, and fifth National Education Goals, requires a comprehensive educational reform strategy that involves parents, schools, government, communities, and other public and private organizations at all levels.

"(2) A crucial component of the strategy for achieving such goals is ensuring, through sustained and intensive high-quality professional development, that all teachers will provide challenging learning experiences in the core academic subjects for their students.

"(3) Decisionmaking as to what activities a State or local educational agency should undertake to improve teaching and learning are best made by individuals in the schools closest to the classroom and most knowledgeable about the needs of schools and students.

"(4) The potential positive impact of high-quality professional development is underscored by recent research findings that—

"(A) professional development must be focused on teaching and learning in order to improve the opportunities of all students to achieve higher standards;

"(B) effective professional development focuses on discipline-based knowledge and effective subject-specific pedagogical skills, involves teams of teachers, and, where appropriate, administrators and pupil services personnel, in a school and, through professional networks of teachers, and, where appropriate, teacher educators, administrators, pupil services personnel, and parents, is interactive and collaborative, motivates by its intrinsic content and relationship to practice, builds on experience and learning-by-doing, and becomes incorporated into the everyday life of the school;

"(C) professional development can dramatically improve classroom instruction and learning when teachers, and, where appropriate, administrators, pupil services personnel, and parents, are partners in the development and implementation of such professional development; and

"(D) new and innovative strategies for teaching to high standards will require time for teachers, outside of the time spent teaching, for instruction, practice, and collegial collaboration.

"(5) Special attention must be given in professional development activities to ensure that education professionals are knowledgeable of, and make use of, strategies for serving populations that historically have lacked access to equal opportunities for advanced learning and career advancement.

"(6) Professional development is often a victim of budget reductions in fiscally difficult times.

"(7) The Federal Government has a vital role in helping States and local educational agencies to make sustained and intensive high-quality professional development in the core academic subjects become an integral part of the elementary and secondary education system.

"(8) Professional development activities must prepare teachers, pupil services personnel, paraprofessionals and other staff in the collaborative skills needed to appropriately teach children with disabilities, in the core academic subjects.

"(9) Parental involvement is an important aspect of school reform and improvement. There is a need for special attention to ensure the effective involvement of parents in the education of their children. Professional development should include methods and strategies to better prepare teachers and, where appropriate, administrators, to enable parents to participate fully and effectively in their children's education.

**"SEC. 2002. PURPOSES.**

"The purposes of this title are to provide assistance to State and local educational agencies and to institutions of higher education with

teacher education programs so that such agencies and institutions can determine how best to improve the teaching and learning of all students by—

"(1) helping to ensure that teachers, and, where appropriate, other staff and administrators, have access to sustained and intensive high-quality professional development that is aligned to challenging State content standards and challenging State student performance standards, and to support the development and implementation of sustained and intensive high-quality professional development activities in the core academic subjects; and

"(2) helping to ensure that teachers, and, where appropriate, administrators, other staff, pupil services personnel, and parents, have access to professional development that—

"(A) is tied to challenging State content standards and challenging State student performance standards;

"(B) reflects recent research on teaching and learning;

"(C) includes strong academic content and pedagogical components;

"(D) incorporates effective strategies, techniques, methods, and practices for meeting the educational needs of diverse student populations, including females, minorities, individuals with disabilities, limited English proficient individuals, and economically disadvantaged individuals, in order to ensure that all students have the opportunity to achieve challenging State student performance standards;

"(E) is of sufficient intensity and duration to have a positive and lasting impact on the teacher's performance in the classroom; and

"(F) is part of the everyday life of the school and creates an orientation toward continuous improvement throughout the school.

**"SEC. 2003. AUTHORIZATION OF APPROPRIATIONS; ALLOCATION BETWEEN PARTS.**

"(a) **AUTHORIZATION OF APPROPRIATIONS.**—For the purpose of carrying out this title, there are authorized to be appropriated \$800,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(b) **ALLOCATION BETWEEN PARTS.**—Of the amounts appropriated to carry out this title for any fiscal year, the Secretary shall make available—

"(1) 5 percent of such amounts to carry out subpart 1, of which 5 percent of such 5 percent shall be available to carry out section 2103;

"(2) 94 percent of such amounts to carry out part B; and

"(3) 1 percent of such amounts to carry out part C except that such 1 percent shall not exceed \$3,200,000 in any fiscal year.

**"PART A—FEDERAL ACTIVITIES**

**"SEC. 2101. PROGRAM AUTHORIZED.**

"(a) **IN GENERAL.**—The Secretary is authorized to make grants to, and enter into contracts and cooperative agreements with, local educational agencies, educational service agencies, State educational agencies, State agencies for higher education, institutions of higher education, and other public and private agencies, organizations, and institutions to—

"(1) support activities of national significance that the Secretary determines will contribute to the development and implementation of high-quality professional development activities in the core academic subjects; and

"(2) evaluate activities carried out under this part and parts B and C, in accordance with section 14701.

"(b) **REQUIREMENTS.**—In carrying out the activities described in subsection (a), the Secretary shall coordinate professional development programs within the Department, particularly with those programs within the Office of Educational

Research and Improvement and the Office of Special Education and Rehabilitative Services, and shall consult and coordinate with the National Science Foundation, the National Endowment for the Humanities, the National Endowment for the Arts, the Institute of Museum Services, and other appropriate Federal agencies and entities.

**"SEC. 2102. AUTHORIZED ACTIVITIES.**

"(a) **ACTIVITIES.**—The Secretary shall use funds available to carry out this part for—

"(1) providing seed money to the entities described in section 2101(a) to develop the capacity of such entities to offer sustained and intensive high-quality professional development;

"(2) awarding a grant or contract, in consultation with the Director of the National Science Foundation, to establish an Eisenhower National Clearinghouse for Mathematics and Science Education (hereafter in this section referred to as the 'Clearinghouse'); and

"(3) evaluating programs assisted under this part and parts B and C, in accordance with section 14701.

**"(b) CLEARINGHOUSE.**—

"(1) **APPLICATION AND AWARD BASIS.**—Each entity desiring to establish and operate the Clearinghouse authorized by subsection (a)(2) shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require. The grant or contract awarded pursuant to subsection (a)(2) shall be made on a competitive, merit basis.

"(2) **DURATION.**—The grant or contract awarded under subsection (a)(2) shall be awarded for a period of five years and shall be reviewed by the Secretary not later than 30 months from the date the grant or contract is awarded.

"(3) **USE OF FUNDS.**—The grant or contract awarded under subsection (a)(2) shall be used to—

"(A) maintain a permanent repository of mathematics and science education instructional materials and programs for elementary and secondary schools, including middle schools (including, to the extent practicable, all materials and programs developed with Federal and non-Federal funds, such as instructional materials developed by the Department, materials developed by State and national mathematics and science programs assisted under this part, and other instructional materials) for use by the regional consortia established under part C of title XIII and by the general public;

"(B) compile information on all mathematics and science education programs administered by each Federal agency or department;

"(C) disseminate information, programs, and instructional materials to the public, dissemination networks, and the regional consortia established under part C of title XIII;

"(D) coordinate with identifiable and existing data bases containing mathematics and science curriculum and instructional materials, including Federal, non-Federal, and, where feasible, international, data bases;

"(E) participate in collaborative meetings of representatives of the Clearinghouse and the regional consortia established under part C of title XIII to discuss issues of common interest and concern, to foster effective collaboration and cooperation in acquiring and distributing curriculum materials and programs, and to coordinate computer network access to the Clearinghouse and the resources of the regional consortia, except that not more than 3 percent of the funds awarded under subsection (a)(2) shall be used to carry out this subparagraph; and

"(F) gather qualitative and evaluative data on submissions to the Clearinghouse.

"(4) **SUBMISSION TO CLEARINGHOUSE.**—Each Federal agency or department which develops

mathematics or science education instructional material or programs, including the National Science Foundation and the Department, shall submit to the Clearinghouse copies of such material or programs.

"(5) **PEER REVIEW.**—The Secretary shall establish a peer review process to select the recipient of the award under subsection (a)(2).

"(6) **STEERING COMMITTEE.**—The Secretary may appoint a steering committee to recommend policies and activities for the Clearinghouse.

"(7) **APPLICATION OF COPYRIGHT LAWS.**—Nothing in this subsection shall be construed to allow the use or copying, in any media, of any material collected by the Clearinghouse that is protected under the copyright laws of the United States unless the permission of the owner of the copyright is obtained. The Clearinghouse, in carrying out the provisions of this subsection, shall ensure compliance with title 17, United States Code.

"(8) **DISSEMINATION OF INFORMATION.**—The Secretary shall disseminate information concerning the grant or contract awarded under this section to State and local educational agencies and institutions of higher education. Such dissemination of information shall include examples of exemplary national programs in mathematics and science instruction and necessary technical assistance for the establishment of similar programs.

"(c) **USES OF FUNDS.**—The Secretary may use funds available to carry out this part for—

"(1) the development and maintenance of national clearinghouses for core academic subjects as the Secretary determines are needed and which shall be administered as adjunct clearinghouses of the Educational Resources Information Center Clearinghouses system of clearinghouses supported by the Office of Educational Research and Improvement;

"(2) professional development institutes that provide teachers or teams of teachers, and, where appropriate, administrators, pupil services personnel and other staff, from individual schools, with professional development that contains strong and integrated disciplinary and pedagogical components;

"(3) encouraging the development of local and national professional networks, such as the Teacher Research Dissemination Demonstration Program under section 941(j) of the Educational Research, Development, Dissemination, and Improvement Act of 1994, that provide a forum for interaction among teachers of the core academic subjects and that allow the exchange of information on advances in content and pedagogy;

"(4) efforts to train teachers in the innovative uses and applications of technology to enhance student learning;

"(5) the development and dissemination of model teaching standards in the core academic subjects;

"(6) disseminating standards in the core academic subjects, including information on voluntary national content standards and voluntary national student performance standards and related models of high-quality professional development;

"(7) the dissemination of information about voluntary national content standards, State content standards, voluntary national student performance standards and State student performance standards, and related models of high-quality professional development;

"(8) efforts to train teachers in innovative instructional methodologies designed to meet the diverse learning needs of individual students, including methodologies which integrate academic and vocational learning and applied learning, interactive, interdisciplinary team teaching, and other alternative teaching strategies, such as service learning, experiential learning, career-related education, and environmental education, that integrate real world applications into the core academic subjects;

"(9) disseminating models of high-quality professional development activities that train educators in strategies, techniques, methods, and practices for meeting the educational needs of historically underserved populations, including females, minorities, individuals with disabilities, limited English proficient individuals, and economically disadvantaged individuals, in order to ensure that all students have the opportunity to achieve challenging State student performance standards;

"(10) promoting the transferability of licensure and certification of teachers and administrators among State and local jurisdictions;

"(11) supporting the National Board for Professional Teaching Standards;

"(12) developing activities to prepare teachers, and, where appropriate, paraprofessionals, pupil services personnel, and other staff in the collaborative skills needed to appropriately teach children with disabilities in the core academic subjects;

"(13) encouraging the development of innovative models for recruitment, induction, retention, and assessment of new, highly qualified teachers, especially such teachers from historically underrepresented groups; and

"(14) joint activities with other Federal agencies and entities engaged in or supporting similar professional development efforts.

**"SEC. 2103. NATIONAL TEACHER TRAINING PROJECT.**

"(a) **SHORT TITLE; FINDINGS; DEFINITIONS.**—

"(1) **SHORT TITLE.**—This section may be cited as the 'National Teacher Training Project Act of 1994'.

"(2) **FINDINGS.**—The Congress finds that—

"(A) teachers must be major players in educational reform in the United States;

"(B) teachers are isolated from their peers and have virtually no time during the school day to consult with other teachers;

"(C) there is a shortage of sustained, year-round professional development programs for teachers;

"(D) successful teaching methods are not adequately shared among teachers;

"(E) teachers are the best teachers of other teachers because practicing classroom teachers have experience that no outside consultant can match;

"(F) it is important for universities and schools to collaborate on teacher development programs if teaching and learning are to be improved;

"(G) pertinent research is not shared among teachers in a professional setting;

"(H) exemplary teachers should be recognized for their abilities and contributions and encouraged to refine their teaching methods;

"(I) each State should support a nationally based teacher training program, that is modeled after the National Writing Project, for teachers of early childhood education, and for teachers of core academic subjects including teachers of mathematics, science, English, civics and government, foreign languages, and arts;

"(J) the National Writing Project is a nationally recognized and honored nonprofit organization that recognizes there are teachers in every region of the United States who have developed successful methods for teaching writing and that such teachers can be trained and encouraged to train other teachers;

"(K) the National Writing Project is a collaborative university-school program which offers summer and school year inservice teacher training programs and a dissemination network to inform and teach teachers regarding developments in the field of writing;

"(L) each year, over 125,000 teachers voluntarily seek training in National Writing Project intensive summer institutes and workshops and school year inservice programs through one of

the 155 sites located within the United States, and in 18 sites located outside of the United States;

"(M) in the 20 years of its existence, over 1,100,000 teachers, administrators, and parents have participated in National Writing Project programs;

"(N) less than \$16 per teacher was the average cost in Federal dollars for all teacher training at writing projects in academic year 1991-1992;

"(O) for every dollar in Federal support, the National Writing Project provides over \$5 in matching funds from States, local universities and schools, and the private sector;

"(P) private foundation resources, although generous in the past concerning National Writing Project programs, are inadequate to fund all of the National Teacher Training Project sites needed, and the future of the program is in jeopardy without secure financial support;

"(Q) the National Writing Project has become a model for programs in other fields, such as science, mathematics, history, literature, foreign languages, and the performing arts, and the development of programs in other fields should continue with the support of Federal funds; and

"(R) each of the 50 States should participate in the National Teacher Training Project by establishing regional teacher training sites in early childhood development, mathematics, science, English, civics and government, foreign languages, and arts to serve all teachers within the State.

"(3) **DEFINITIONS.**—For the purpose of this section—

"(A) the term 'contractor' means—

"(i) a local educational agency;

"(ii) an educational service agency; or

"(iii) an institution of higher education that awards a bachelor's degree; and

"(B) the term 'eligible recipient' means a nonprofit educational organization which has as its primary purpose the improvement of student learning in one of the core academic subjects described in subsection (b)(2).

"(b) **GRANTS AUTHORIZED.**—

"(1) **GRANTS TO ELIGIBLE RECIPIENTS.**—The Secretary is authorized to award a grant to an eligible recipient to enable such recipient—

"(A) to support and promote the establishment of teacher training programs in early childhood development and one of the nine core subject areas described in paragraph (2), including the dissemination of effective practices and research findings regarding teacher training, and administrative activities;

"(B) to support classroom research on effective teaching practices in such area; and

"(C) to pay the Federal share of the cost of such programs and research.

"(2) **CORE SUBJECT AREAS.**—To the extent feasible, the Secretary shall award a grant under paragraph (1) for the establishment of a National Teacher Training Project in early childhood development and each of the following core subject areas:

"(A) Mathematics.

"(B) Science.

"(C) English.

"(D) Civics and government.

"(E) Foreign languages.

"(F) Arts.

"(G) Geography.

"(H) History.

"(I) Economics.

"(3) **NUMBER OF GRANTS AND ELIGIBLE RECIPIENTS.**—The Secretary shall award not more than ten grants under paragraph (1) to ten different eligible recipients.

"(4) **EQUITABLE DISTRIBUTION.**—The Secretary shall award grants under paragraph (1) to eligible recipients from different geographic areas of the United States.

"(5) **SPECIAL RULE.**—Each grant under paragraph (1) shall be of sufficient size, scope, and quality to be effective.

"(6) **ADMINISTRATIVE COSTS AND TECHNICAL ASSISTANCE.**—Each eligible recipient receiving a grant under paragraph (1) may use not more than a total of 5 percent of the grant funds for administrative costs and the costs of providing technical assistance to a contractor.

"(c) **GRANT REQUIREMENTS.**—Each eligible recipient receiving a grant under subsection (b) shall—

"(1) enter into a contract with a contractor under which such contractor agrees—

"(A) to establish, operate, and provide the non-Federal share of the cost of teacher training programs in effective approaches and processes for the teaching of the core academic subjects for which such eligible recipient was awarded a grant, including approaches and processes to obtain parental involvement in a child's education; and

"(B) to use funds received from the eligible recipient to pay the Federal share of the cost of establishing and operating teacher training programs described in subparagraph (A);

"(2) to submit annual reports to the Secretary and be responsible for oversight of the funds expended at each teacher training program described in subparagraph (A); and

"(3) meet such other conditions and standards as the Secretary determines to be necessary to ensure compliance with this section and provide such technical assistance as may be necessary to carry out this section.

"(d) **TEACHER TRAINING PROGRAMS.**—The teacher training programs described in subsection (b) shall—

"(1) be conducted during the school year and during the summer months;

"(2) train teachers who teach grades kindergarten through college;

"(3) select teachers to become members of a National Teacher Training Project, which members shall conduct inservice workshops for other teachers in the area subject matter served by the National Teacher Training Project site;

"(4) use teacher training principles and receive technical assistance from the National Writing Project; and

"(5) encourage teachers from all disciplines to participate in such teacher training programs.

"(e) **FEDERAL SHARE.**—The term 'Federal share' means, with respect to the costs of teacher training programs described in subsection (b), 50 percent of such costs to the contractor.

"(f) **APPLICATION.**—Each eligible recipient desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(g) **PARTICIPANTS AND SELECTION PROCESS.**—The selection process for participation in a teacher training program described in subsection (b) shall—

"(1) reward exemplary teachers with varying levels of teaching experience who are nominated by other teachers and administrators;

"(2) involve an application process to select participants for a summer program;

"(3) ensure the selection of a geographically and ethnically diverse group of teachers by soliciting applications from teachers of both public and private institutions in rural, urban, and suburban settings in each State; and

"(4) automatically offer a place in a summer program to the 'Teacher of the Year' chosen pursuant to a Federal or State teacher recognition program.

"(h) **LIMITATION.**—A contractor entering into a contract under subsection (c)(1) shall not spend more than 5 percent of funds received under the contract for administrative costs.

**"PART B—STATE AND LOCAL ACTIVITIES**

**"SEC. 2201. PROGRAM AUTHORIZED.**

"The Secretary is authorized to make grants to State educational agencies for the improvement of teaching and learning through sustained and intensive high-quality professional

development activities in the core academic subjects at the State and local levels.

**"SEC. 2202. ALLOCATION OF FUNDS.**

"(a) **RESERVATION OF FUNDS.**—From the amount available to carry out this part for any fiscal year, the Secretary shall reserve—

"(1) 1/2 of 1 percent for the outlying areas, to be distributed among the outlying areas on the basis of their relative need, as determined by the Secretary in accordance with the purposes of this part; and

"(2) 1/2 of 1 percent for the Secretary of the Interior for programs under this part for professional development activities for teachers, other staff, and administrators in schools operated or funded by the Bureau of Indian Affairs.

"(b) **STATE ALLOCATIONS.**—The Secretary shall allocate the amount available to carry out this part and not reserved under subsection (a) to each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico as follows, except that no State shall receive less than 1/2 of 1 percent of such amount:

"(1) Fifty percent shall be allocated among such jurisdictions on the basis of their relative populations of individuals aged five through 17, as determined by the Secretary on the basis of the most recent satisfactory data.

"(2) Fifty percent shall be allocated among such jurisdictions in accordance with the relative amounts such jurisdictions received under part A of title I for the preceding fiscal year, or for fiscal year 1995 only, such part's predecessor authority.

"(c) **REALLOCATION.**—If any jurisdiction does not apply for an allotment under subsection (b) for any fiscal year, the Secretary shall reallocate such amount to the remaining jurisdictions in accordance with such subsection.

**"SEC. 2203. WITHIN-STATE ALLOCATIONS.**

"Of the amounts received by a State under this part for any fiscal year—

"(1) 84 percent shall be available for local allowable activities under section 2210(b), of which—

"(A) not more than 5 percent may be used for the administrative costs of the State educational agency and for State-level activities described in section 2207; and

"(B) of the remaining amount—

"(i) 50 percent shall be distributed to local educational agencies—

"(I) for use in accordance with section 2210; and

"(II) in accordance with the relative enrollments in public and private nonprofit elementary and secondary schools within the boundaries of such agencies; and

"(ii) 50 percent of such amount shall be distributed to local educational agencies—

"(I) for use in accordance with section 2210; and

"(II) in accordance with the relative amount such agencies received under part A of title I or for fiscal year 1995 of the preceding fiscal year, such part's predecessor authority; and

"(2) 16 percent shall be available to the State agency for higher education for activities under section 2211, of which not more than 5 percent may be used for the administrative costs of the State agency for higher education.

**"SEC. 2204. CONSORTIUM REQUIREMENT.**

"(a) **IN GENERAL.**—A local educational agency receiving a grant under this part of less than \$10,000 shall form a consortium with another local educational agency or an educational service agency serving another local educational agency to be eligible to participate in programs assisted under this part.

"(b) **WAIVER.**—The State educational agency may waive the application of paragraph (1) in the case of any local educational agency that demonstrates that the amount of its allocation under this part is sufficient to provide a pro-

gram of sufficient size, scope, and quality to be effective. In granting waivers under the preceding sentence, the State educational agency shall—

"(1) give special consideration to local educational agencies serving rural areas if distances or traveling time between schools make formation of the consortium more costly or less effective; and

"(2) consider cash or in-kind contributions provided from State or local sources that may be combined with the local educational agency's allocation for the purpose of providing services under this part.

"(c) **SPECIAL RULE.**—Each consortium shall rely, as much as possible, on technology or other arrangements to provide staff development programs tailored to the needs of each school or school district participating in a consortium described in subsection (a).

**"SEC. 2205. STATE APPLICATIONS.**

"(a) **APPLICATIONS REQUIRED.**—Each State educational agency that wishes to receive an allotment under this part for any fiscal year shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require.

"(b) **STATE PLAN TO IMPROVE TEACHING AND LEARNING.**—

"(1) **IN GENERAL.**—Each application under this section shall include a State plan that is coordinated with the State's plan under other programs assisted under this Act, the Goals 2000: Educate America Act, and other Acts, as appropriate, consistent with the provisions of section 14306.

"(2) **CONTENTS.**—Each such State plan shall—

"(A) be developed in conjunction with the State agency for higher education, community-based and other nonprofit organizations of demonstrated effectiveness, institutions of higher education or schools of education, and with the extensive participation of local teachers, administrators and pupil services personnel and show the role of each such entity in implementation of the plan;

"(B) be designed to give teachers, and, where appropriate, administrators and pupil services personnel in the State, the knowledge and skills necessary to provide all students the opportunity to meet challenging State content standards and challenging State student performance standards;

"(C) include an assessment of State and local needs for professional development specifically related to subparagraph (B);

"(D) include a description of how the plan has assessed the needs of local educational agencies serving rural and urban areas, and what actions are planned to meet such needs;

"(E) include a description of how the activities assisted under this part will address the needs of teachers in schools receiving assistance under part A of title I;

"(F) a description of how programs in all core academic subjects, but especially in mathematics and science, will take into account the need for greater access to, and participation in, such disciplines by students from historically underrepresented groups, including females, minorities, individuals with limited English proficiency, the economically disadvantaged, and individuals with disabilities, by incorporating pedagogical strategies and techniques which meet such individuals' educational needs;

"(G) be consistent with the State's needs assessment under subparagraph (C), and describe how the State will work with teachers, including teachers in schools receiving assistance under part A of title I, administrators, parents, local educational agencies, schools, educational service agencies, institutions of higher education, and nonprofit organizations of demonstrated effectiveness, to ensure that such indi-

viduals develop the capacity to support sustained and intensive, high-quality professional development programs in the core academic subjects;

"(H) describe how the State requirements for licensure of teachers and administrators, including certification and recertification, support challenging State content standards and challenging State student performance standards and whether such requirements are aligned with such standards;

"(I) address the need for improving teaching and learning through teacher development beginning with recruitment, preservice, and induction, and continuing throughout the professional teaching career, taking into account the need, as determined by the State, for greater access to and participation in the teaching profession by individuals from historically underrepresented groups;

"(J) describe how the State will prepare all teachers to teach children with diverse learning needs, including children with disabilities;

"(K) describe how the State will prepare teachers, and, where appropriate, paraprofessionals, pupil services personnel, and other staff in the collaborative skills needed to appropriately teach children with disabilities, in the core academic subjects;

"(L) describe how the State will use technology, including the emerging national information infrastructure, to enhance the professional development of teachers, and, where appropriate, administrators and pupil services personnel;

"(M) describe how the State will provide incentives to teachers and administrators to focus their professional development on preparing such teachers and administrators to provide instruction consistent with challenging State content standards and challenging State student performance standards;

"(N) set specific performance indicators for professional development; and

"(O) describe how parents can be involved in professional development programs to enhance the participation of parents in the education of their children.

"(3) **DURATION OF THE PLAN.**—Each such State plan shall—

"(A) remain in effect for the duration of the State's participation under this part; and

"(B) be periodically reviewed and revised by the State, as necessary, to reflect changes in the State's strategies and programs under this part.

"(c) **ADDITIONAL MATERIAL.**—Each State application shall include—

"(1) a description of how the activities assisted under this part will be coordinated, as appropriate, with—

"(A) other activities conducted with Federal funds, especially activities supported under part A of title I of this Act and the Individuals with Disabilities Education Act;

"(B) programs supported by State and local funds;

"(C) resources from business and industry, museums, libraries, educational television stations, and public and private nonprofit organizations of demonstrated experience; and

"(D) funds received from other Federal agencies, such as the National Science Foundation, the Departments of Commerce, Energy, and Health and Human Services, the National Endowment for the Arts, the Institute of Museum Services, and the National Endowment for the Humanities; and

"(2) a description of the activities to be sponsored under the State-level activities under section 2207 and the higher education activities under section 2211.

"(d) **PEER REVIEW AND SECRETARIAL APPROVAL.**—

"(1) **IN GENERAL.**—The Secretary shall approve an application of a State educational

agency under this section if such application meets the requirements of this section and holds reasonable promise of achieving the purposes of this part.

"(2) REVIEW.—In reviewing applications under this section, the Secretary shall obtain the advice of non-Federal experts on education in the core academic subjects and on teacher education, including teachers and administrators.

**"SEC. 2206. PRIORITY FOR PROFESSIONAL DEVELOPMENT IN MATHEMATICS AND SCIENCE.**

"(a) APPROPRIATION OF LESS THAN \$250,000,000.—In any fiscal year for which the amount appropriated for this title is less than \$250,000,000, each State shall ensure that all funds distributed in accordance with section 2203(1)(C) are used for professional development in mathematics and science.

"(b) APPROPRIATION EQUAL TO OR ABOVE \$250,000,000.—In any fiscal year for which the amount appropriated for this title is equal to or exceeds \$250,000,000, each State and local educational agency shall use for professional development activities in mathematics and science the amount of funds that would have been made available to each such agency in accordance with sections 2202 and 2203 if the amount appropriated was \$250,000,000, consistent with subsection (a), and are permitted and encouraged to use the amount of funds in excess of \$250,000,000 that is made available in accordance with sections 2202 and 2203 for professional development activities in mathematics and science.

**"SEC. 2207. STATE LEVEL ACTIVITIES.**

"Each State may use funds made available under section 2203(1)(A) to carry out activities described in the plan under section 2205(b), such as—

"(1) reviewing and reforming State requirements for teacher and administrator licensure, including certification and recertification, to align such requirements with the State's challenging State content standards and ensure that teachers and administrators have the knowledge and skills necessary to help students meet challenging State student performance standards;

"(2) developing performance assessments and peer review procedures, as well as other methods, for licensing teachers and administrators;

"(3) providing technical assistance to schools and local educational agencies, especially schools and local educational agencies that receive assistance under part A of title I, to help such schools and agencies provide effective professional development in the core academic subjects;

"(4) developing or supporting professional development networks, either within a State or in a regional consortium of States, that provide a forum for interaction among teachers and that allow exchange of information on advances in content and pedagogy;

"(5) supporting partnerships between schools, consortia of schools, or local educational agencies and institutions of higher education, including schools of education, which encourage—

"(A) teachers to participate in intensive, ongoing professional development programs, both academic and pedagogical, at institutions of higher education; and

"(B) students at institutions of higher education studying to become teachers to have direct, practical experience at the schools;

"(6) providing professional development in the effective use of educational technology as an instructional tool for increasing student understanding of the core academic subjects, including efforts to train teachers in methods of achieving gender equity both in students' access to computers and other educational technology

and in teaching practices used in the application of educational technology;

"(7) providing incentives for teachers to be involved in assessment, curriculum development, and technical assistance processes for teachers and students;

"(8) providing professional development to enable teachers, and, where appropriate, pupil services personnel, and other school staff, to ensure that girls and young women, minorities, limited English proficient students, individuals with disabilities, and economically disadvantaged students have the full opportunity to achieve to challenging State content standards and challenging State student performance standards in the core academic subjects by, for example, encouraging girls and young women and minorities to pursue advanced courses in mathematics and science;

"(9) professional development and recruitment activities designed to increase the numbers of minorities, individuals with disabilities, and women teaching in the core academic subjects in which such individuals are underrepresented;

"(10) providing financial or other incentives for teachers to become certified by nationally recognized professional teacher enhancement organizations;

"(11) providing professional development activities which prepare teachers, and where appropriate, pupil services personnel, paraprofessionals, and other staff in the collaborative skills needed to appropriately teach children with disabilities, in the core academic subjects;

"(12) identifying, developing, or supporting professional development strategies to better equip parents to assist their children in raising their children's achievement in the core academic subjects;

"(13) professional development activities designed to increase the number of women and other underrepresented groups in the administration of schools;

**"SEC. 2208. LOCAL PLAN AND APPLICATION FOR IMPROVING TEACHING AND LEARNING.**

**"(a) LOCAL APPLICATION.—**

"(1) IN GENERAL.—Each local educational agency that wishes to receive a subgrant under this part shall submit an application (singly or as a consortium as described in section 2204) to the State educational agency at such time as the State educational agency shall require, but not less frequently than every three years, that is coordinated with other programs under this Act, the Goals 2000: Educate America Act, or other Acts, as appropriate, consistent with the provisions of section 14306.

"(2) INDICATORS.—A local educational agency shall set specific performance indicators for improving teaching and learning through professional development.

**"(b) NEEDS ASSESSMENT.—**

"(1) IN GENERAL.—A local educational agency that wishes to receive a subgrant under this part shall include in its application an assessment of local needs for professional development as identified by the local educational agency and school staff.

"(2) REQUIREMENTS.—Such needs assessment shall be carried out with the involvement of teachers, including teachers in schools receiving assistance under part A of title I, and shall take into account what activities need to be conducted in order to give teachers and, where appropriate, administrators, the means, including the knowledge and skills, to provide students with the opportunity to meet challenging State or local student performance standards.

"(c) APPLICATION CONTENTS.—Each application under this section shall include the local educational agency's plan for professional development that—

"(1) focuses on teaching and learning in the core academic subjects; and

"(2) has been developed with the extensive participation of administrators, staff, and pupil services personnel, which teachers shall also be representative of the grade spans within schools to be served and of schools which receive assistance under part A of title I.

**"(d) PLAN CONTENTS.—**

"(1) IN GENERAL.—Based on the needs assessment required under subsection (b), the local educational agency's plan shall—

"(A) include a description of how the plan contributes to the local educational agency's overall efforts for school reform and educational improvement;

"(B) include a description of how the activities funded under this section will address the needs of teachers in schools receiving assistance under part A of title I;

"(C) be aligned with the State's challenging State content standards and challenging State student performance standards;

"(D) describe a strategy, tied to challenging State content standards and challenging State student performance standards, consistent with the needs assessment under subsection (b);

"(E) be of sufficient intensity and duration to have a positive and lasting impact on the student's performance in the classroom;

"(F) describe how programs in all core academic subjects, but especially in mathematics and science, will take into account the need for greater access to, and participation in, such disciplines by students from historically underrepresented groups, including girls and women, minorities, individuals with limited English proficiency, the economically disadvantaged, and individuals with disabilities, by incorporating pedagogical strategies and techniques which meet such individuals' educational need;

"(G) contain an assurance that the activities conducted with funds received under this part will be assessed at least every three years using the performance indicators;

"(H) describe how the program funded under this part will be coordinated, as appropriate, with—

"(i) activities conducted under section 2131 and other services of institutions of higher education;

"(ii) similar State and local activities;

"(iii) resources provided under part A of title I and other provisions of this Act;

"(iv) resources from business, industry, public and private nonprofit organizations (including museums, libraries, educational television stations, community-based organizations, professional organizations and associations specializing in, or with a demonstrated expertise in the core academic subjects);

"(v) funds or programming from other Federal agencies, such as the National Science Foundation, the Department of Energy, the Department of Health and Human Services, the Institute of Museum Services, the National Endowment for the Humanities, and the National Endowment for the Arts;

"(vi) services of educational service agencies; and

"(vii) resources provided under the Individuals with Disabilities Education Act;

"(I) identify the sources of funding that will provide the local educational agency's contribution under section 2209; and

"(J) describe the professional development strategies to be employed to more fully and effectively involve parents in the education of their children.

"(2) DURATION OF THE PLAN.—Each local plan described in subsection (b)(1) shall—

"(A) remain in effect for the duration of the local educational agency's participation under this part; and

"(B) be periodically reviewed and revised by the local educational agency, as necessary, to

reflect changes in the local educational agency's strategies and programs under this part.

**"SEC. 2209. LOCAL COST-SHARING.**

"(a) **IN GENERAL.**—Each local educational agency shall provide not less than 33 percent of the cost of the activities assisted under this part, excluding the cost of services provided to private school teachers.

"(b) **AVAILABLE RESOURCES FOR COST-SHARING.**—

"(1) **IN GENERAL.**—A local educational agency may meet the requirement of subsection (a) through one or more of the following:

"(A) Cash expenditures from non-Federal sources, including private contributions, directed toward professional development activities.

"(B) Release time for teachers participating in professional development assisted under this part.

"(C) Funds received under one or more of the following programs, so long as such funds are used for professional development activities consistent with this part and the statutes under which such funds were received, and are used to benefit students and teachers in schools that otherwise would have been served with such funds:

"(i) helping disadvantaged children meet high standards under part A of title I.

"(ii) The Safe and Drug-Free Schools and Communities program under title IV.

"(iii) Bilingual Education Programs under part A of title VII.

"(iv) Programs under the Women's Educational Equity Act of 1994.

"(v) Programs under title III of the Goals 2000: Educate America Act.

"(vi) Programs that are related to the purposes of this Act that are administered by other Federal agencies, including the National Science Foundation, the National Endowment for the Humanities, the National Endowment for the Arts, the Institute of Museum Services, and the Department of Energy.

"(vii) Programs under the Individuals with Disabilities Education Act.

"(2) **SPECIAL RULE.**—A local educational agency may meet the requirement of subsection (a) through contributions described in paragraph (1) that are provided in cash or in kind, fairly evaluated.

"(c) **WAIVER.**—The State educational agency may approve an application which has not fully met the requirements of subsection (a) and waive the requirements of subsection (a) if a local educational agency can demonstrate that such agency is unable to meet the requirements of subsection (a) due to economic hardship and that compliance with such requirements would preclude such agency's participation in the program.

**"SEC. 2210. LOCAL ALLOCATION OF FUNDS AND ALLOWABLE ACTIVITIES.**

"(a) **LOCAL ALLOCATION OF FUNDS.**—Each local educational agency that receives funds under this part for any fiscal year—

"(1) shall use not less than 80 percent of such funds for professional development of teachers, and, where appropriate, administrators, and, where appropriate, pupil services personnel, parents, and other staff of individual schools in a manner that—

"(A) is determined by such teachers and staff;

"(B) to the extent practicable, takes place at the individual school site; and

"(C) is consistent with the local educational agency's application under section 2208, any school plan under part A of title I, and any other plan for professional development carried out with Federal, State, or local funds that emphasizes sustained, ongoing activities; and

"(2) may use not more than 20 percent of such funds for school district-level professional devel-

opment activities, including, where appropriate, the participation of administrators, policy-makers, and parents, if such activities directly support instructional personnel.

"(b) **AUTHORIZED ACTIVITIES.**—

"(1) **IN GENERAL.**—Each local educational agency and school that receives funds under this part shall use such funds for activities that give teachers and administrators the knowledge and skills to provide students with the opportunity to meet challenging State or local content standards and student performance standards.

"(2) **PROFESSIONAL DEVELOPMENT ACTIVITIES.**—Professional development activities funded under this part shall—

"(A) be tied to challenging State content standards or challenging local content standards, and challenging State student performance standards or challenging local student performance standards;

"(B) take into account recent research on teaching and learning;

"(C) provide professional development which incorporates effective strategies, techniques, methods, and practices for meeting the educational needs of diverse groups of students, including girls and women, minorities, individuals with disabilities, limited English proficient individuals, and economically disadvantaged individuals;

"(D) include strong academic content and pedagogical components; and

"(E) be of sufficient intensity and duration to have a positive and lasting impact on the teacher's performance in the classroom.

"(3) **ACTIVITIES.**—Funds under this part may be used for professional development activities such as—

"(A) professional development for teams of teachers, and, where appropriate, administrators, pupil services personnel, or other staff from individual schools, to support teaching consistent with challenging State content standards and challenging State student performance standards;

"(B) support and time, which in the case of teachers may include release time with pay, for teachers, and, where appropriate, pupil services personnel and other school staff to enable such teachers, personnel, and staff to participate in professional development in the core academic subjects that are offered through professional associations, universities, community-based organizations, and other providers, such as educational partnership organizations, science centers, and museums;

"(C) activities that provide followup for teachers who have participated in professional development activities that are designed to ensure that the knowledge and skills learned by the teacher are implemented in the classroom;

"(D) support for partnerships between schools, consortia of schools, or local educational agencies, and institutions of higher education, including schools of education, which partnerships shall encourage—

"(i) teachers to participate in intensive, ongoing professional development programs, both academic and pedagogical, at institutions of higher education; and

"(ii) students at institutions of higher education studying to become teachers to have direct, practical experience at schools;

"(E) the establishment and maintenance of local professional networks that provide a forum for interaction among teachers and that allow exchange of information on advances in content and pedagogy;

"(F) preparing teachers in the effective use of educational technology and assistive technology as instructional tools for increasing student understanding of the core academic subjects;

"(G) professional development to enable teachers, and, where appropriate, pupil services

personnel and other school staff, to ensure that girls and young women, minorities, limited English proficient students, individuals with disabilities, and the economically disadvantaged have full opportunity to achieve the challenging State content standards and challenging State student performance standards in the core academic subjects;

"(H) professional development and recruitment activities designed—

"(i) to increase the number of minorities, individuals with disabilities, and females teaching in the core academic subjects in which such individuals are underrepresented; and

"(ii) to increase the numbers of women and members of other underrepresented groups who are science and mathematics teachers, through such programs as career ladder programs that assist educational paraprofessionals to obtain teaching credentials in the core academic subjects;

"(I) providing financial or other incentives for teachers to become certified by nationally recognized professional teacher enhancement programs;

"(J) support and time for teachers, and, where appropriate, pupil services personnel, and other school staff to learn and implement effective collaboration for the instruction of children with disabilities in the core academic subject areas;

"(K) preparing teachers, and, where appropriate, pupil services personnel to work with parents and families on fostering student achievement in the core academic subjects;

"(L) professional development activities and other support for new teachers as such teachers move into the classroom to provide such teachers with practical support and to increase the retention of such teachers;

"(M) professional development for teachers, parents, early childhood educators, administrators, and other staff to support activities and services related to preschool transition programs to raise student performance in the core academic subjects;

"(N) professional development activities to train teachers in innovative instructional methodologies designed to meet the diverse learning needs of individual students, including methodologies which integrate academic and vocational learning and applied learning, interactive and interdisciplinary team teaching, and other alternative teaching strategies such as service learning, experiential learning, career-related education, and environmental education, that integrate real world applications into the core academic subjects;

"(O) developing professional development strategies and programs to more effectively involve parents in helping their children achieve in the core academic subjects;

"(P) professional development activities designed to increase the number of women and other underrepresented groups in the administration of schools; and

"(Q) release time with pay for teachers.

**"SEC. 2211. HIGHER EDUCATION ACTIVITIES.**

"(a) **ACTIVITIES.**—

"(1) **IN GENERAL.**—From amounts made available under section 2203(2), the State agency for higher education, working in conjunction with the State educational agency (if such agencies are separate), shall make grants to, or enter into contracts or cooperative agreements with, institutions of higher education and nonprofit organizations of demonstrated effectiveness, including museums and educational partnership organizations, which must work in conjunction with a local educational agency, consortium of local educational agencies, or schools, for—

"(A) professional development activities in the core academic subjects that contribute to the State plan for professional development;

"(B) developing and providing assistance to local educational agencies, and the teachers and

staff of each such agency, for sustained, high-quality professional development activities; and

"(C) improving teacher education programs in order to promote further innovation in teacher education programs within an institution of higher education and to better meet the needs of the local educational agencies for well-prepared teachers.

"(2) **COMPETITIVE BASIS.**—Each grant, contract, or cooperative agreement described in paragraph (1) shall be awarded on a competitive basis.

"(3) **SPECIAL RULE.**—No institution of higher education may receive assistance under (a)(1) of this subsection unless the institution enters into an agreement with a local educational agency, or consortium of such agencies, to provide sustained, high-quality professional development for the elementary and secondary school teachers in the schools of each such agency.

"(4) **JOINT EFFORTS.**—Each activity assisted under this section, where applicable, shall involve the joint effort of the institution of higher education's school or department of education, if any, and the schools or departments in the specific disciplines in which such professional development will be provided.

"(b) **ALLOWABLE ACTIVITIES.**—A recipient of funds under this section shall use such funds for—

"(1) sustained and intensive high-quality professional development for teams of teachers, or teachers, and, where appropriate, pupil services personnel and administrators from individual schools or school districts;

"(2) other sustained and intensive professional development activities related to achievement of the State plan for professional development; and

"(3) preservice training activities.

"(c) **PARTNERSHIPS.**—Each institution of higher education receiving a grant under this section may also enter into a partnership with a private industry, museum, library, educational television station, or public or private nonprofit organization of demonstrated experience to carry out professional development activities assisted under this section.

#### "PART C—PROFESSIONAL DEVELOPMENT DEMONSTRATION PROJECT

##### "SEC. 2301. FINDINGS AND PURPOSE.

"(a) **FINDINGS.**—The Congress finds that—

"(1) underlying the standards-driven framework of the Goals 2000: Educate America Act and the high academic standards for eligible students under title I is a widespread need to prepare teachers to teach to higher standards;

"(2) prospective and current teachers need knowledge and skills beyond what such teachers currently possess;

"(3) while both the Goals 2000: Educate America Act and titles I and II of this Act have extensive references to professional development of teachers, there are no provisions to incorporate 'on-the-ground' planning and implementation to serve as models for local educational agencies across the Nation; and

"(4) better prepared teachers can lead to improved student achievement, especially for students who are furthest from reaching high standards.

"(b) **PURPOSE.**—It is the purpose of this part—

"(1) to address the need for professional development with a primary focus on teachers;

"(2) to provide both prospective teachers and current teachers opportunities to learn both the content and the pedagogy needed to teach to high standards; and

"(3) to build models, in a few cities and States, that demonstrate new organizational arrangements and deep investments in teachers necessary to better prepare teachers for new standards and assessments.

##### "SEC. 2302. DEMONSTRATION PROGRAM AUTHORIZED.

"(a) **GENERAL AUTHORITY.**—

"(1) **IN GENERAL.**—The Secretary shall carry out a demonstration project under which the Secretary awards grants in accordance with this part to eligible partnerships to enable such partnerships to plan and implement professional development programs.

"(2) **PROGRAM REQUIREMENTS.**—The programs described in paragraph (1)—

"(A) shall focus on increasing teachers' knowledge and understanding of content by providing teachers opportunities to improve their knowledge and to improve their classroom practice in order to help students meet high academic standards;

"(B) shall include teachers at all career stages, from student teachers or interns through senior team leaders or department chairs; and

"(C) may incorporate professional development for principals, pupil services personnel, aides, other school-based staff, and parents.

"(b) **ELIGIBLE PARTNERSHIPS.**—For the purpose of this part, the term 'eligible partnership' means a partnership consisting of—

"(1) a local educational agency, a subunit of such agency, or a consortium of such agencies, in which not less than 50 percent of the schools served by such agency, subunit, or consortium are eligible to participate in schoolwide programs under section 1114; or

"(2) other partners that—

"(A) shall include, at a minimum, a teachers' union (if appropriate), one or more institutions of higher education which may include faculty from schools of education and faculty from schools of arts and sciences, and a local parent or community council; and

"(B) may include a business partner or a nonprofit organization with a demonstrated record in staff development.

##### "SEC. 2303. GRANTS.

"(a) **AUTHORITY.**—

"(1) **IN GENERAL.**—The Secretary shall award grants for planning, and grants for the implementation of, professional development programs under this part.

"(2) **DISTRIBUTION.**—The Secretary shall award not less than 75 percent of the funds available for grants under this part to eligible partnerships serving the schools with the greatest number of poor students. To the extent possible, such grants shall be awarded to eligible partnerships serving both rural and urban school districts and in a manner that reflects geographic and racial diversity.

"(3) **NUMBER OF GRANTS.**—In the first year that the Secretary awards grants under this part, the Secretary shall award at least twice as many planning grants as implementation grants in order to receive well-developed plans for long-term funding under this part.

"(b) **GRANT REQUIREMENTS.**—

"(1) **DURATION.**—The Secretary shall award—

"(A) planning grants under this part for a period of not less than six months and not more than nine months; and

"(B) implementation grants under this part for a period of four fiscal years.

"(2) **AMOUNT.**—The Secretary shall award grants under this part in an amount determined on the basis of the size of the program and the level of investment the eligible partnership is making in teacher development in the area served by the eligible partnership, including local, State, and Federal funds and existing higher education resources, except that no grant under this part shall exceed \$500,000 in any one fiscal year.

##### "SEC. 2304. PLAN.

"Each eligible partnership desiring assistance under this part shall develop a plan for the program to be assisted under this part. Such plan shall—

"(1) identify clearly how such plan will support an overall systemic reform strategy giving

special attention to the role of teacher preparation for new standards and assessment;

"(2) describe the eligible partnership's instructional objectives and how the professional development activities will support such objectives;

"(3) specify the organizational arrangements and delivery strategies to be used, such as teacher centers, professional development schools, teacher networks, and academic alliances, as well as the curriculum for teachers;

"(4) specify the commitments the local educational agencies, teacher's union, institutions of higher education, or any other entity participating in such partnership are prepared to make, not only to support program activities such as release time, contractual flexibility, support for interns or student teachers if applicable, but also to sustain the central aspects of the plan after the expiration of the grant; and

"(5) describe how the activities described under this part will lead to districtwide policy and budget changes.

##### "SEC. 2305. TECHNICAL ASSISTANCE.

"The Secretary is authorized to enter into an arrangement with an intermediary organization to enable such organization to provide technical assistance to eligible partnerships receiving assistance under this part.

##### "SEC. 2306. MATCHING FUNDS.

"The Secretary shall give special priority to awarding grants under this part to eligible partnerships that demonstrate such partnership's ability to raise matching funds from private sources.

#### "PART D—GENERAL PROVISIONS

##### "SEC. 2401. REPORTING AND ACCOUNTABILITY.

"(a) **STATES.**—Each State that receives funds under this part shall submit a report to the Secretary every three years, beginning with fiscal year 1997, on the State's progress toward the performance indicators identified in such State's plan, as well as on the effectiveness of State and local activities assisted under this part.

"(b) **LOCAL EDUCATIONAL AGENCIES.**—Each local educational agency that receives funds under this part shall submit a report to the State every three years, beginning with fiscal year 1997, regarding the progress of such agency toward performance indicators identified in such agency's local plan, as well as on the effectiveness of such agency's activities under this part.

"(c) **FEDERAL EVALUATION.**—The Secretary shall report to the President and the Congress on the effectiveness of programs and activities assisted under this part in accordance with section 14701.

"(d) **PROHIBITION ON FUNDS BEING USED FOR CONSTRUCTION OR RENOVATION.**—Funds received under this part shall not be used for construction or renovation of buildings, rooms, or any other facilities.

##### "SEC. 2402. DEFINITIONS.

"As used in this part—

"(1) the term 'core academic subjects' means those subjects listed in the State plan under title III of the Goals 2000: Educate America Act or under the third National Education Goal as set forth in section 102(3) of such Act;

"(2) the term 'performance indicators' means measures of specific outcomes that the State or local educational agency identifies as assessing progress toward the goal of ensuring that all teachers have the knowledge and skills necessary to assist their students to meet challenging State content standards and challenging State student performance standards in the core academic subjects, such as—

"(A) the degree to which licensure requirements are tied to challenging State content standards and challenging State student performance standards;

"(B) specific increases in the number of elementary and secondary teachers with strong

content backgrounds in the core academic subjects;

"(C) incorporating effective strategies, techniques, methods, and practices for meeting the educational needs of diverse students, including females, minorities, individuals with disabilities, limited English proficient individuals, and economically disadvantaged individuals, in order to ensure that all students have the opportunity to achieve challenging student performance standards;

"(D) specific increases in the number of teachers who are certified by the National Board for Professional Teaching Standards or other nationally recognized professional teacher enhancement organizations; and

"(E) specific increases in the number of teachers licensed in each core academic subject;

"(3) the term 'sustained and intensive high-quality professional development' means professional development activities that—

"(A) are tied to challenging State content standards, challenging State student performance standards, voluntary national content standards or voluntary national student performance standards;

"(B) reflect up-to-date research in teaching and learning and include integrated content and pedagogical components appropriate for students with diverse learning needs;

"(C) incorporate effective strategies, techniques, methods, and practices for meeting the educational needs of diverse students, including females, minorities, individuals with disabilities, limited English proficient individuals, and economically disadvantaged individuals, in order to ensure that all students have the opportunity to achieve challenging student performance standards;

"(D) are of sufficient intensity and duration to have a positive and lasting impact on the teacher's performance in the classroom or the administrator's performance on the job; and

"(E) recognize teachers as an important source of knowledge that should inform and help shape professional development; and

"(4) the term 'local', when used with respect to standards, means challenging content and student performance standards in the core academic subjects (in addition to challenging State content and student performance standards approved by the State for title I).

### "TITLE III—TECHNOLOGY FOR EDUCATION

#### "SEC. 3101. SHORT TITLE.

"This title may be cited as the 'Technology for Education Act of 1994'.

#### "PART A—TECHNOLOGY FOR EDUCATION OF ALL STUDENTS

#### "SEC. 3111. FINDINGS.

"The Congress finds that—

"(1) technology can produce far greater opportunities for all students to learn to high standards, promote efficiency and effectiveness in education, and help propel our Nation's school systems into very immediate and dramatic reform, without which our Nation will not meet the National Education Goals by the target year 2000;

"(2) the use of technology as a tool in the teaching and learning process is essential to the development and maintenance of a technologically literate citizenry and an internationally competitive workforce;

"(3) the acquisition and use of technology in education throughout the United States has been inhibited by—

"(A) the absence of Federal leadership;

"(B) the inability of many State and local educational agencies to invest in and support needed technologies;

"(C) the limited exposure of students and teachers to the power of technology as a cost-effective tool to improve student learning and achievement;

"(D) the lack of appropriate electrical and telephone connections in the classroom; and

"(E) the limited availability of appropriate technology-enhanced curriculum, instruction, professional development, and administrative support resources and services in the educational marketplace;

"(4) policies at the Federal, State, and local levels concerning technology in education must address disparities in the availability of technology to different groups of students, give priority to serving students in greatest need, and recognize that educational telecommunications and technology can address educational equalization concerns and school restructuring needs by providing universal access to high-quality teaching and programs, particularly in urban and rural areas;

"(5) the increasing use of new technologies and telecommunications systems in business has increased the gap between schooling and work force preparation, and underscores the need for technology policies at the Federal, State, tribal, and local levels that address preparation for school-to-work transitions;

"(6) technology can enhance the ongoing professional development of teachers and administrators by providing constant access to updated research in teaching and learning by means of telecommunications, and, through exposure to technology advancements, keep teachers and administrators excited and knowledgeable about unfolding opportunities for the classroom;

"(7) planned and creative uses of technology, combined with teachers adequately trained in the use of technology, can reshape our Nation's traditional method of providing education and empower teachers to create an environment in which students are challenged through rigorous, rich classroom instruction provided at a pace suited to each student's learning style, and in which students have increased opportunities to develop higher order thinking and technical skills;

"(8) schools need new ways of financing the acquisition and maintenance of educational technology;

"(9) the needs for educational technology differ from State to State;

"(10) technology can provide students, parents, teachers, other education professionals, communities, and industry with increased opportunities for partnerships and with increased access to information, instruction, and educational services in schools and other settings, including homes, libraries, preschool and childcare facilities, adult and family education programs, and postsecondary institutions;

"(11) the Department, consistent with the overall national technology policy established by the President, must assume a vital leadership and coordinating role in developing the national vision and strategy to infuse advanced technology throughout all educational programs;

"(12) Federal support can ease the burden at the State and local levels by enabling the acquisition of advanced technology and initiating the development of teacher training and support as well as new educational products;

"(13) leadership at the Federal level should consider guidelines to ensure that educational technology is accessible to all users with maximum interoperability nationwide;

"(14) the rapidly changing nature of technology requires coordination and flexibility in Federal leadership; and

"(15) technology has the potential to assist and support the improvement of teaching and learning in schools and other settings.

#### "SEC. 3112. STATEMENT OF PURPOSE.

"The purpose of this part is to support a comprehensive system for the acquisition and use by

elementary and secondary schools in the United States of technology and technology-enhanced curricula, instruction, and administrative support resources and services to improve the delivery of educational services. Such system shall include—

"(1) national leadership with respect to the need for, and the provision of, appropriate technology-enhanced curriculum, instruction, and administrative programs to improve learning in the United States, and to promote equal access for all students to educational opportunities in order to achieve the National Education Goals by the year 2000;

"(2) funding mechanisms which will support the development, interconnection, implementation, improvement, and maintenance of an effective educational technology infrastructure, including activities undertaken by State and local educational agencies to promote and provide equipment, training for teachers and school library and media personnel, and technical support;

"(3) support for technical assistance, professional development, information and resource dissemination, in order to help States, local educational agencies, teachers, school library and media personnel, and administrators successfully integrate technology into kindergarten through 12th grade classrooms and library media centers;

"(4) support for the development of educational and instructional programming in core subject areas, which shall address the National Education Goals;

"(5) strengthening and building upon, but not duplicating, existing telecommunications infrastructures dedicated to educational purposes;

"(6) development and evaluation of new and emerging educational technologies, telecommunications networks, and state-of-the-art educational technology products that promote the use of advanced technologies in the classroom and school library media center;

"(7) assessment data regarding state-of-the-art uses of technologies in United States education upon which commercial and noncommercial telecommunications entities, and governments can rely for decisionmaking about the need for, and provision of, appropriate technologies for education in the United States;

"(8) ensuring that uses of educational technology are consistent with the overall national technology policy established by the President, and ensuring that Federal technology-related policies and programs will facilitate the use of technology in education;

"(9) ensuring that activities supported under this part will form the basis for sound State and local decisions about investing in, sustaining, and expanding uses of technology in education;

"(10) establishing working guidelines to ensure maximum interoperability nationwide and ease of access for the emerging technologies so that no school system will be excluded from the technological revolution;

"(11) ensuring that, as technological advances are made, the educational uses of these advances are considered and their applications are developed; and

"(12) encouragement of collaborative relationships among the State agency for higher education, the State library administrative agency, the State telecommunications agency, and the State educational agency, in the area of technology support to strengthen the system of education.

#### "SEC. 3113. DEFINITIONS.

"For purposes of this title—

"(1) the term 'adult education' has the same meaning given such term by section 312 of the Adult Education Act;

"(2) the term 'all students' means students from a broad range of backgrounds and circumstances, including disadvantaged students,

students with diverse racial, ethnic, and cultural backgrounds, students with disabilities, students with limited English proficiency, students who have dropped out of school, and academically talented students;

"(3) the term 'information infrastructure' means a network of communication systems designed to exchange information among all citizens and residents of the United States;

"(4) the term 'instructional programming' means the full range of audio and video data, text, graphics, or additional state-of-the-art communications, including multimedia based resources distributed through interactive, command and control, or passive methods for the purpose of education and instruction;

"(5) the terms 'interoperable' and 'interoperability' mean the ability to exchange easily data with, and connect to, other hardware and software in order to provide the greatest accessibility for all students and other users;

"(6) the term 'Office' means the Office of Educational Technology;

"(7) the term 'public telecommunications entity' has the same meaning given to such term by section 397(12) of the Communications Act of 1934;

"(8) the term 'regional educational laboratory' means a regional educational laboratory supported under section 941(h) of the Educational, Research, Development, Dissemination, and Improvement Act of 1994;

"(9) the term 'State educational agency' includes the Bureau of Indian Affairs for purposes of serving schools funded by the Bureau of Indian Affairs in accordance with this part;

"(10) the term 'State library administrative agency' has the same meaning given to such term in section 3 of the Library Services and Construction Act; and

"(11) the term 'technology' means state-of-the-art technology products and services, such as closed circuit television systems, educational television and radio programs and services, cable television, satellite, copper and fiber optic transmission, computer hardware and software, video and audio laser and CD-ROM discs, and video and audio tapes.

**"SEC. 3114. AUTHORIZATION OF APPROPRIATIONS; FUNDING RULE.**

"(a) AUTHORIZATION OF APPROPRIATIONS.—

"(1) SUBPARTS 1, 2, AND 3.—There are authorized to be appropriated \$200,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years to carry out subparts 1, 2, and 3, of which—

"(A)(i) \$3,000,000 shall be available to carry out subpart 1 (National Programs for Technology in Education) for any such year for which the amount appropriated under this subsection is less than \$75,000,000; and

"(ii) \$5,000,000 shall be available to carry out subpart 2 for any such year for which the amount appropriated under this subsection is equal to or greater than \$75,000,000;

"(B) \$10,000,000 shall be available to carry out subpart 3 (Regional Technical Support and Professional Development) for each such year; and

"(C) the remainder shall be available to carry out subpart 2 (State and Local Programs for School Technology Resources) for each such year.

"(2) SUBPART 4.—For the purpose of carrying out subpart 4, there are authorized to be appropriated \$50,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(b) FUNDING RULE.—

"(1) APPROPRIATIONS OF LESS THAN \$75,000,000.—For any fiscal year for which the amount appropriated under subsection (a)(1) is less than \$75,000,000, from the remainder of funds made available under subsection (a)(1)(C) the Secretary shall award grants for the Na-

tional Challenge Grants in accordance with section 3136.

"(2) APPROPRIATIONS EQUAL TO OR GREATER THAN \$75,000,000.—For any fiscal year for which the amount appropriated under subsection (a)(1) is equal to or greater than \$75,000,000, from the remainder of funds made available under subsection (a)(1)(C) the Secretary shall award grants to State educational agencies from allotments under section 3131, except that the Secretary may reserve, from such remainder, such funds as the Secretary determines necessary to meet outstanding obligations for such fiscal year to continue the National Challenge Grants for Technology awarded under section 3136.

**"SEC. 3115. LIMITATION ON COSTS.**

"Not more than 5 percent of the funds under this part that are made available to a recipient of funds under this part for any fiscal year may be used by such recipient for administrative costs or technical assistance.

**"Subpart 1—National Programs for Technology in Education**

**"SEC. 3121. NATIONAL LONG-RANGE TECHNOLOGY PLAN.**

"(a) IN GENERAL.—The Secretary shall develop and publish not later than 12 months after the date of the enactment of the Improving America's Schools Act of 1994, and update when the Secretary determines appropriate, a national long-range plan that supports the overall national technology policy and carries out the purposes of this part.

"(b) PLAN REQUIREMENTS.—The Secretary shall—

"(1) develop the national long-range plan in consultation with other Federal departments or agencies, State and local education practitioners and policymakers, experts in technology and the applications of technology to education, representatives of distance learning consortia, representatives of telecommunications partnerships receiving assistance under the Star Schools Act, and providers of technology services and products;

"(2) transmit such plan to the President and to the appropriate committees of the Congress; and

"(3) publish such plan in a form that is readily accessible to the public.

"(c) CONTENTS OF THE PLAN.—The national long-range plan shall describe the Secretary's activities to promote the purposes of this title, including—

"(1) how the Secretary will encourage the effective use of technology to provide all students the opportunity to achieve State content standards and State student performance standards, especially through programs administered by the Department;

"(2) joint activities in support of the overall national technology policy with other Federal departments or agencies, such as the Office of Science and Technology Policy, the National Endowment for the Humanities, the National Endowment for the Arts, the National Institute for Literacy, the National Aeronautics and Space Administration, the National Science Foundation, the Bureau of Indian Affairs, and the Departments of Commerce, Energy, Health and Human Services, and Labor—

"(A) to promote the use of technology in education, training, and lifelong learning, including plans for the educational uses of a national information infrastructure; and

"(B) to ensure that the policies and programs of such departments or agencies facilitate the use of technology for educational purposes, to the extent feasible;

"(3) how the Secretary will work with educators, State and local educational agencies, and appropriate representatives of the private sector to facilitate the effective use of technology in education;

"(4) how the Secretary will promote—

"(A) higher achievement of all students through the integration of technology into the curriculum;

"(B) increased access to the benefits of technology for teaching and learning for schools with a high number or percentage of children from low-income families;

"(C) the use of technology to assist in the implementation of State systemic reform strategies;

"(D) the application of technological advances to use in education;

"(E) increased access to high quality adult and family education services through the use of technology for instruction and professional development; and

"(F) increased opportunities for the professional development of teachers in the use of new technologies;

"(5) how the Secretary will determine, in consultation with appropriate individuals, organizations, industries, and agencies, the feasibility and desirability of establishing guidelines to facilitate an easy exchange of data and effective use of technology in education;

"(6) how the Secretary will promote the exchange of information among States, local educational agencies, schools, consortia, and other entities concerning the effective use of technology in education;

"(7) how the Secretary will utilize the outcomes of the evaluation undertaken pursuant to section 3123 to promote the purposes of this part; and

"(8) the Secretary's long-range measurable goals and objectives relating to the purposes of this part.

**"SEC. 3122. FEDERAL LEADERSHIP.**

"(a) PROGRAM AUTHORIZED.—In order to provide Federal leadership in promoting the use of technology in education, the Secretary, in consultation with the National Science Foundation, the Department of Commerce, the United States National Commission on Libraries and Information Sciences, and other appropriate Federal agencies, may carry out activities designed to achieve the purposes of this part directly or by awarding grants or contracts competitively and pursuant to a peer review process to, or entering into contracts with, State educational agencies, local educational agencies, institutions of higher education, or other public and private nonprofit or for-profit agencies and organizations.

"(b) ASSISTANCE.—

"(1) IN GENERAL.—The Secretary shall provide assistance to the States to enable such States to plan effectively for the use of technology in all schools throughout the State in accordance with the purpose and requirements of section 317 of the Goals 2000: Educate America Act.

"(2) OTHER FEDERAL AGENCIES.—For the purpose of carrying out coordinated or joint activities consistent with the purposes of this part, the Secretary may accept funds from, and transfer funds to, other Federal agencies.

"(c) USES OF FUNDS.—The Secretary shall use funds made available to carry out this section for activities designed to carry out the purpose of this part, such as—

"(1) providing assistance to technical assistance providers to enable such providers to improve substantially the services such providers offer to educators regarding the uses of technology for education, including professional development;

"(2) providing development grants to technical assistance providers, to enable such providers to improve substantially the services such providers offer to educators on the educational uses of technology, including professional development;

"(3) consulting with representatives of industry, elementary and secondary education, higher education, adult and family education, and appropriate experts in technology and educational applications of technology in carrying out activities under this subpart;

"(4) research on, and the development of, guidelines to facilitate maximum interoperability, efficiency and easy exchange of data for effective use of technology in education;

"(5) research on, and the development of, applications for education of the most advanced and newly emerging technologies which research shall be coordinated, when appropriate, with the Office of Educational Research and Improvement, and other Federal agencies;

"(6) the development, demonstration, and evaluation of the educational aspects of high performance computing and communications technologies and of the national information infrastructure, in providing professional development for teachers, school librarians, and other educators; enriching academic curricula for elementary and secondary schools; facilitating communications among schools, local educational agencies, libraries, parents, and local communities and in other such areas as the Secretary deems appropriate;

"(7) the development, demonstration, and evaluation of applications of existing technology in preschool education, elementary and secondary education, training and lifelong learning, and professional development of educational personnel;

"(8) the development and evaluation of software and other products, including multimedia television programming, that incorporate advances in technology and help achieve the National Education Goals, State content standards and State student performance standards;

"(9) the development, demonstration, and evaluation of model strategies for preparing teachers and other personnel to use technology effectively to improve teaching and learning;

"(10) the development of model programs that demonstrate the educational effectiveness of technology in urban and rural areas and economically distressed communities;

"(11) research on, and the evaluation of, the effectiveness and benefits of technology in education;

"(12) a biennial assessment of, and report to the public regarding, the uses of technology in elementary and secondary education throughout the United States upon which private businesses and Federal, State, tribal, and local governments may rely for decisionmaking about the need for, and provision of, appropriate technologies in schools, which assessment and report shall use, to the extent possible, existing information and resources;

"(13) conferences on, and dissemination of information regarding, the uses of technology in education;

"(14) the development of model strategies to promote gender equity concerning access to, and the use of, technology in the classroom;

"(15) encouraging collaboration between the Department and other Federal agencies in the development, implementation, evaluation and funding of applications of technology for education, as appropriate; and

"(16) such other activities as the Secretary determines will meet the purposes of this subpart.

**"(d) NON-FEDERAL SHARE.—**

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Secretary may require any recipient of a grant or contract under this section to share in the cost of the activities assisted under such grant or contract, which non-Federal share shall be announced through a notice in the Federal Register and may be in the form of cash or in-kind contributions, fairly valued.

"(2) INCREASE.—The Secretary may increase the non-Federal share that is required of a recipient of a grant or contract under this section after the first year such recipient receives funds under such grant or contract.

"(3) MAXIMUM.—The non-Federal share required under this section shall not exceed 50

percent of the cost of the activities assisted pursuant to a grant or contract under this section.

**"SEC. 3123. STUDY, EVALUATION AND REPORT OF FUNDING ALTERNATIVES.**

"The Secretary, through the Office of Educational Technology, shall conduct a study to evaluate, and report to the Congress on, the feasibility of several alternative models for providing sustained and adequate funding for schools throughout the United States so that such schools are able to acquire and maintain technology-enhanced curriculum, instruction, and administrative support resources and services. Such report shall be submitted to the Congress not later than one year after the date of enactment of the Improving America's Schools Act of 1994.

**"Subpart 2—State and Local Programs for School Technology Resources**

**"SEC. 3131. ALLOTMENT AND REALLOTMENT.**

**"(a) ALLOTMENT.—**

"(1) IN GENERAL.—Except as provided in paragraph (2), each State educational agency shall be eligible to receive a grant under this subpart for a fiscal year in an amount which bears the same relationship to the amount made available under section 3114(a)(1)(C) for such year as the amount such State received under part A of title I for such year bears to the amount received for such year under such part by all States.

"(2) MINIMUM.—No State educational agency shall be eligible to receive a grant under paragraph (1) in any fiscal year in an amount which is less than one-half of one percent of the amount made available under section 3115(a)(1)(C) for such year.

**"(b) REALLOTMENT OF UNUSED FUNDS.—**

"(1) IN GENERAL.—The amount of any State educational agency's allotment under subsection (a) for any fiscal year which the Secretary determines will not be required for such fiscal year to carry out this subpart shall be available for reallocation from time to time, on such dates during such year as the Secretary may determine, to other State educational agencies in proportion to the original allotments to such State educational agencies under subsection (a) for such year, but with such proportionate amount for any of such other State educational agencies being reduced to the extent such amount exceeds the sum the Secretary estimates such State needs and will be able to use for such year.

"(2) OTHER REALLOTMENTS.—The total of reductions under paragraph (1) shall be similarly reallocated among the State educational agencies whose proportionate amounts were not so reduced. Any amounts reallocated to a State educational agency under this subsection during a year shall be deemed a subpart of such agencies allotment under subsection (a) for such year.

**"SEC. 3132. SCHOOL TECHNOLOGY RESOURCE GRANTS.**

**"(a) GRANTS TO STATES.—**

"(1) IN GENERAL.—From amounts made available under section 3131, the Secretary, through the Office of Educational Technology, shall award grants to State educational agencies having applications approved under section 3133.

"(2) USE OF GRANTS.—(A) Each State educational agency receiving a grant under paragraph (1) shall use such grant funds to award grants, on a competitive basis, to local educational agencies to enable such local educational agencies to carry out the activities described in section 3134.

"(B) In awarding grants under subparagraph (A), each State educational agency shall ensure that each such grant is of sufficient duration, and of sufficient size, scope, and quality, to carry out the purposes of this part effectively.

"(b) TECHNICAL ASSISTANCE.—Each State educational agency receiving a grant under paragraph (1) shall—

"(1) identify the local educational agencies served by the State educational agency that—

"(A) have the highest number or percentage of children in poverty; and

"(B) demonstrate to such State educational agency the greatest need for technical assistance in developing the application under section 3133; and

"(2) offer such technical assistance to such local educational agencies.

**"SEC. 3133. STATE APPLICATION.**

"To receive funds under this subpart, each State educational agency shall submit a statewide educational technology plan which may include plans submitted under the Goals 2000: Educate America Act or other statewide technology plans which meet the requirements of this section. Such application shall be submitted to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require. Each such application shall contain a systemic statewide plan that—

"(1) outlines long-term strategies for financing technology education in the State and describes how business, industry, and other public and private agencies, including libraries, library literacy programs, and institutions of higher education, can participate in the implementation, ongoing planning, and support of the plan; and

"(2) meets such other criteria as the Secretary may establish in order to enable such agency to provide assistance to local educational agencies that have the highest numbers or percentages of children in poverty and demonstrate the greatest need for technology, in order to enable such local educational agencies, for the benefit of school sites served by such local educational agencies, to carry out activities such as—

"(A) purchasing quality technology resources;

"(B) installing various linkages necessary to acquire connectivity;

"(C) integrating technology into the curriculum in order to improve student learning and achievement;

"(D) providing teachers and library media personnel with training or access to training;

"(E) providing administrative and technical support and services that improve student learning through enriched technology-enhanced resources, including library media resources;

"(F) promoting in individual schools the sharing, distribution, and application of educational technologies with demonstrated effectiveness;

"(G) assisting schools in promoting parent involvement;

"(H) assisting the community in providing literacy-related services;

"(I) establishing partnerships with private or public educational providers or other entities to serve the needs of children in poverty; and

"(J) providing assurances that financial assistance provided under this part shall supplement, not supplant, State and local funds.

**"SEC. 3134. LOCAL USES OF FUNDS.**

"Each local educational agency, to the extent possible, shall use the funds made available under section 3132(a)(2) for—

"(1) developing, adapting, or expanding existing and new applications of technology to support the school reform effort;

"(2) funding projects of sufficient size and scope to improve student learning and, as appropriate, support professional development, and provide administrative support;

"(3) acquiring connectivity linkages, resources, and services, including the acquisition of hardware and software, for use by teachers, students and school library media personnel in the classroom or in school library media centers, in order to improve student learning by supporting the instructional program offered by such agency to ensure that students in schools will have meaningful access on a regular basis to such linkages, resources and services;

"(4) providing ongoing professional development in the integration of quality educational

technologies into school curriculum and long-term planning for implementing educational technologies;

"(5) acquiring connectivity with wide area networks for purposes of accessing information and educational programming sources, particularly with institutions of higher education and public libraries; and

"(6) providing educational services for adults and families.

**"SEC. 3135. LOCAL APPLICATIONS.**

"Each local educational agency desiring assistance from a State educational agency under section 3132(a)(2) shall submit an application, consistent with the objectives of the systemic statewide plan, to the State educational agency at such time, in such manner and accompanied by such information as the State educational agency may reasonably require. Such application, at a minimum, shall—

"(1) include a strategic, long-range (three- to five-year), plan that includes—

"(A) a description of the type of technologies to be acquired, including specific provisions for interoperability among components of such technologies and, to the extent practicable, with existing technologies;

"(B) an explanation of how the acquired technologies will be integrated into the curriculum to help the local educational agency enhance teaching, training, and student achievement;

"(C) an explanation of how programs will be developed in collaboration with existing adult literacy services providers to maximize the use of such technologies;

"(D)(i) a description of how the local educational agency will ensure ongoing, sustained professional development for teachers, administrators, and school library media personnel served by the local educational agency to further the use of technology in the classroom or library media center; and

"(ii) a list of the source or sources of ongoing training and technical assistance available to schools, teachers and administrators served by the local educational agency, such as State technology offices, intermediate educational support units, regional educational laboratories or institutions of higher education;

"(E) a description of the supporting resources, such as services, software and print resources, which will be acquired to ensure successful and effective use of technologies acquired under this section;

"(F) the projected timetable for implementing such plan in schools;

"(G) the projected cost of technologies to be acquired and related expenses needed to implement such plan; and

"(H) a description of how the local educational agency will coordinate the technology provided pursuant to this subpart with other grant funds available for technology from State and local sources;

"(2) describe how the local educational agency will involve parents, public libraries, business leaders and community leaders in the development of such plan;

"(3) describe how the acquired instructionally based technologies will help the local educational agency—

"(A) promote equity in education in order to support State content standards and State student performance standards that may be developed; and

"(B) provide access for teachers, parents and students to the best teaching practices and curriculum resources through technology; and

"(4) describe a process for the ongoing evaluation of how technologies acquired under this section—

"(A) will be integrated into the school curriculum; and

"(B) will affect student achievement and progress toward meeting the National Education

Goals and any challenging State content standards and State student performance standards that may be developed.

"(d) **FORMATION OF CONSORTIA.**—A local educational agency for any fiscal year may apply for financial assistance as part of a consortium with other local educational agencies, institutions of higher education, intermediate educational units, libraries, or other educational entities appropriate to provide local programs. The State educational agency may assist in the formation of consortia among local educational agencies, providers of educational services for adults and families, institutions of higher education, intermediate educational units, libraries, or other appropriate educational entities to provide services for the teachers and students in a local educational agency at the request of such local educational agency.

"(e) **COORDINATION OF APPLICATION REQUIREMENTS.**—If a local educational agency submitting an application for assistance under this section has developed a comprehensive education improvement plan, in conjunction with requirements under this Act or the Goals 2000: Educate America Act, the State educational agency may approve such plan, or a component of such plan, notwithstanding the requirements of subsection (e) if the State educational agency determines that such approval would further the purposes of this subpart.

**"SEC. 3136. NATIONAL CHALLENGE GRANTS FOR TECHNOLOGY IN EDUCATION.**

"(a) **GRANTS AUTHORIZED.**—

"(1) **IN GENERAL.**—From amounts made available under section 3115(b)(1) for any fiscal year the Secretary is authorized to award grants, on a competitive basis, to consortia having applications approved under subsection (d), which consortia shall include at least one local educational agency with a high percentage or number of children living below the poverty line and may include other local educational agencies, State educational agencies, institutions of higher education, businesses, academic content experts, software designers, museums, libraries, or other appropriate entities.

"(2) **DURATION.**—Grants under this section shall be awarded for a period of 5 years.

"(b) **USE OF GRANTS.**—Grants awarded under subsection (a) shall be used for activities similar to the activities described in section 3134.

"(c) **PRIORITY.**—In awarding grants under this section, the Secretary shall give priority to consortia which demonstrate in the application submitted under subsection (d) that—

"(1) the project for which assistance is sought is designed to serve areas with a high number or percentage of disadvantaged students or the greatest need for educational technology;

"(2) the project will directly benefit students by, for example, integrating the acquired technologies into curriculum to help the local educational agency enhance teaching, training, and student achievement;

"(3) the project will ensure ongoing, sustained professional development for teachers, administrators, and school library media personnel served by the local educational agency to further the use of technology in the classroom or library media center;

"(4) the project will ensure successful, effective, and sustainable use of technologies acquired under this subsection; and

"(5) members of the consortia or other appropriate entities will contribute substantial financial and other resources to achieve the goals of the project.

"(d) **APPLICATION.**—Each local educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

**"SEC. 3137. FEDERAL ADMINISTRATION.**

"(a) **EVALUATION PROCEDURES.**—The Secretary shall develop procedures for State and local evaluations of the programs under this subpart.

"(b) **EVALUATION SUMMARY.**—The Secretary shall submit to the Congress four years after the enactment of the Improving America's Schools Act of 1994 a summary of the State evaluations of programs under this subpart in accordance with the provisions of section 14701.

**"Subpart 3—Regional Technical Support and Professional Development**

**"SEC. 3141. REGIONAL TECHNICAL SUPPORT AND PROFESSIONAL DEVELOPMENT.**

"(a) **GRANTS AUTHORIZED.**—

"(1) **AUTHORITY.**—The Secretary, through the Office of Educational Technology, shall make grants in accordance with the provisions of this section, to regional entities such as the Eisenhower Mathematics and Science Regional Consortia under part C of title XIII, the regional education laboratories, the comprehensive regional assistance centers, or such other regional entities as may be designated or established by the Secretary. In awarding grants under this section, the Secretary shall give priority to such consortia and shall ensure that each geographic region of the United States shall be served by such a consortium.

"(2) **REQUIREMENTS.**—Each consortium receiving a grant under this section shall—

"(A) be composed of State educational agencies, institutions of higher education, nonprofit organizations, or a combination thereof;

"(B) in cooperation with State and local educational agencies, develop a regional program that addresses professional development, technical assistance, and information resource dissemination, with special emphasis on meeting the documented needs of educators and learners in the region; and

"(C) foster regional cooperation and resource and coursework sharing.

"(b) **FUNCTIONS.**—

"(1) **TECHNICAL ASSISTANCE.**—Each consortium receiving a grant under this section shall, to the extent practicable—

"(A) collaborate with State educational agencies and local educational agencies requesting collaboration, particularly in the development of strategies for assisting those schools with the highest numbers or percentages of disadvantaged students with little or no access to technology in the classroom;

"(B) provide information, in coordination with information available from the Secretary, to State educational agencies, local educational agencies, schools and adult education programs, on the types and features of various educational technology equipment and software available, evaluate and make recommendations on equipment and software that support the National Education Goals and are suited for a school's particular needs, and compile and share information regarding creative and effective applications of technology in the classroom and school library media centers in order to support the purposes of this part;

"(C) collaborate with such State educational agencies, local educational agencies, or schools requesting to participate in the tailoring of software programs and other supporting materials to meet challenging State content standards or challenging State student performance standards that may be developed; and

"(D) provide technical assistance to facilitate use of the electronic dissemination networks by State and local educational agencies and schools throughout the region.

"(2) **PROFESSIONAL DEVELOPMENT.**—Each consortium receiving a grant under this section shall, to the extent practicable—

"(A) develop and implement, in collaboration with State educational agencies and institutions

of higher education, technology-specific, ongoing professional development, such as—

"(i) intensive school year and summer workshops that use teachers, school librarians, and school library personnel to train other teachers, school librarians, and other school library media personnel; and

"(ii) distance professional development, including—

"(I) interactive training tele-courses using researchers, educators, and telecommunications personnel who have experience in developing, implementing, or operating educational and instructional technology as a learning tool;

"(II) onsite courses teaching teachers to use educational and instructional technology and to develop their own instructional materials for effectively incorporating technology and programming in their own classrooms;

"(III) methods for successful integration of instructional technology into the curriculum in order to improve student learning and achievement;

"(IV) video conferences and seminars which offer professional development through peer interaction with experts as well as other teachers using technologies in their classrooms; and

"(V) mobile education technology and training resources;

"(B) develop training resources that—

"(i) are relevant to the needs of the region and schools within the region;

"(ii) are relevant to the needs of adult literacy staff and volunteers, including onsite courses on how to—

"(I) use instructional technology; and

"(II) develop instructional materials for adult learning; and

"(iii) are aligned with the needs of teachers and administrators in the region;

"(C) establish a repository of professional development and technical assistance resources;

"(D) identify and link technical assistance providers to State and local educational agencies, as needed;

"(E) ensure that training, professional development, and technical assistance meet the needs of educators, parents, and students served by the region;

"(F) assist colleges and universities within the region to develop and implement preservice training programs for students enrolled in teacher education programs; and

"(G) assist local educational agencies and schools in working with community members and parents to develop support from communities and parents for educational technology programs and projects.

"(3) INFORMATION AND RESOURCE DISSEMINATION.—Each consortium receiving a grant under this section shall, to the extent practicable—

"(A) assist State and local educational agencies in the identification and procurement of financial, technological and human resources needed to implement technology plans;

"(B) provide outreach and, at the request of a State or local educational agency, work with such agency to assist in the development and validation of instructionally based technology education resources; and

"(C) coordinate activities and establish partnerships with organizations and institutions of higher education that represent the interests of the region as such interests pertain to the application of technology in teaching, learning, instructional management, dissemination, collection and distribution of educational statistics, and the transfer of student information.

"(4) COORDINATION.—Each consortium receiving a grant under this section shall work collaboratively, and coordinate the services the consortium provides, with appropriate regional and other entities assisted in whole or in part by the Department.

#### "Subpart 4—Product Development

##### "SEC. 3151. EDUCATIONAL TECHNOLOGY PRODUCT DEVELOPMENT.

"(a) PURPOSE.—It is the purpose of this subpart to—

"(1) support development of curriculum-based learning resources using state-of-the-art technologies and techniques designed to improve student learning; and

"(2) support development of long-term comprehensive instructional programming and associated support resources that ensure maximum access by all educational institutions.

"(b) FEDERAL ASSISTANCE AUTHORIZED.—

"(1) IN GENERAL.—The Secretary shall provide assistance, on a competitive basis, to eligible consortia to enable such entities to develop, produce, and distribute state-of-the-art technology-enhanced instructional resources and programming for use in the classroom or to support professional development for teachers.

"(2) GRANTS AND LOANS AUTHORIZED.—In carrying out the purposes of this section, the Secretary is authorized to pay the Federal share of the cost of the development, production, and distribution of state-of-the-art technology enhanced instructional resources and programming—

"(A) by awarding grants to, or entering into contracts or cooperative agreements with, eligible consortia; or

"(B) by awarding loans to eligible consortia which—

"(i) shall be secured in such manner and be repaid within such period, not exceeding 20 years, as may be determined by the Secretary;

"(ii) shall bear interest at a rate determined by the Secretary which shall be not more than the total of one-quarter of 1 percent per annum added to the rate of interest paid by the Secretary on funds obtained from the Secretary of the Treasury; and

"(iii) may be forgiven by the Secretary, in an amount not to exceed 25 percent of the total loan, under such terms and conditions as the Secretary may consider appropriate.

"(3) MATCHING REQUIREMENT.—The Secretary may require any recipient of a grant or contract under this subpart to share in the cost of the activities assisted under such grant or contract, which non-Federal share shall be announced through a notice in the Federal Register and may be in the form of cash or in-kind contributions, fairly valued.

"(4) ELIGIBLE CONSORTIUM.—For the purpose of this subsection, the term 'eligible consortium' means a consortium—

"(A) that shall include—

"(i) a State or local educational agency; and

"(ii) a business, industry, or telecommunications entity; and

"(B) that may include—

"(i) a public or private nonprofit organization; or

"(ii) a postsecondary institution.

"(5) PRIORITIES.—In awarding assistance under this section, the Secretary shall give priority to applications describing programs or systems that—

"(A) promote the acquisition of higher-order thinking skills and promise to raise the achievement levels of all students, particularly disadvantaged students who are not realizing their potential;

"(B) are aligned with challenging State content standards and State and local curriculum frameworks;

"(C) may be adapted and applied nationally at a reasonable cost over a broad technology platform;

"(D) convert technology resources developed with support from the Department of Defense and other Federal agencies for effective use in the classroom;

"(E) show promise of reducing the costs of providing high-quality instruction;

"(F) show promise of expanding access to high-quality instruction in content areas which would otherwise not be available to students in rural and urban communities or who are served by other educational agencies with limited financial resources;

"(G) are developed in consultation with classroom teachers;

"(H) are developed through consultation and collaboration with appropriate education entities in designing the product to ensure relevance to the voluntary national content standards, the voluntary national student performance standards and State curriculum frameworks; and

"(I) are developed so that the product can be adapted for use by adults in need of literacy services, including English as a second language and preparation for a secondary school diploma or its recognized equivalent.

"(6) REQUIREMENTS FOR FEDERAL ASSISTANCE.—Each eligible consortium desiring Federal assistance under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may prescribe. Each application shall include—

"(A) a description of how the product will improve the achievement levels of students;

"(B) a description of how the activities assisted under this section will promote professional development of teachers and administrators in the uses and applications of the product, including the development of training materials;

"(C) a description of design, development, field testing, evaluation, and distribution of products, where appropriate;

"(D) an assurance that the product shall effectively serve a significant number or percentage of economically disadvantaged students;

"(E) plans for dissemination of products to a wide audience of learners;

"(F) a description of how the product can be adapted for use by students with disabilities including provisions for closed captioning or descriptive video, where appropriate;

"(G) a description of how ownership and rights to the use and marketing of any product developed by the consortium, including intellectual property rights, will be allocated among consortium participants; and

"(H) a description of the contributions, including services and funds, to be made by each member of the consortium, and how any revenues derived from the sale of any product developed by the consortium shall be distributed.

"(c) CONSUMER REPORT.—The Secretary shall provide for the independent evaluation of products developed under this section and shall disseminate information about products developed pursuant to provisions of this section to State and local educational agencies, and other organizations or individuals that the Secretary determines to be appropriate, through print and electronic media that are accessible to the education community at large.

"(d) PROCEEDS.—The Secretary shall not prohibit an eligible consortium or any of the members of such consortium from receiving financial benefits from the distribution of any products resulting from the assistance received under this section. Notwithstanding any other provision of law, any profits or royalties received by a State educational agency, local educational agency, or other nonprofit member of an eligible consortium receiving assistance under this section shall be used to support further development of curriculum-based learning resources, services, and programming or to provide access to such products for a wider audience.

#### "PART B—STAR SCHOOLS PROGRAM

##### "SEC. 3201. SHORT TITLE.

"This part may be cited as the 'Star Schools Act'.

**"SEC. 3202. FINDINGS.**

"The Congress finds that—

"(1) the Star Schools program has helped to encourage the use of distance learning strategies to serve multi-State regions primarily by means of satellite and broadcast television;

"(2) in general, distance learning programs have been used effectively to provide students in small, rural, and isolated schools with courses and instruction, such as science and foreign language instruction, that the local educational agency is not otherwise able to provide; and

"(3) distance learning programs may also be used to—

"(A) provide students of all ages in all types of schools and educational settings with greater access to high-quality instruction in the full range of core academic subjects that will enable such students to meet challenging, internationally competitive, educational standards;

"(B) expand professional development opportunities for teachers;

"(C) contribute to achievement of the National Education Goals; and

"(D) expand learning opportunities for every-one.

**"SEC. 3203. PURPOSE.**

"It is the purpose of this part to encourage improved instruction in mathematics, science, and foreign languages as well as other subjects, such as literacy skills and vocational education, and to serve underserved populations, including the disadvantaged, illiterate, limited-English proficient, and individuals with disabilities, through a star schools program under which grants are made to eligible telecommunication partnerships to enable such partnerships to—

"(1) develop, construct, acquire, maintain and operate telecommunications audio and visual facilities and equipment;

"(2) develop and acquire educational and instructional programming; and

"(3) obtain technical assistance for the use of such facilities and instructional programming.

**"SEC. 3204. GRANTS AUTHORIZED.**

"(a) **AUTHORITY.**—The Secretary, through the Office of Educational Technology, is authorized to make grants, in accordance with the provisions of this part, to eligible entities to pay the Federal share of the cost of—

"(1) the development, construction, acquisition, maintenance and operation of telecommunications facilities and equipment;

"(2) the development and acquisition of live, interactive instructional programming;

"(3) the development and acquisition of preservice and inservice teacher training programs based on established research regarding teacher-to-teacher mentoring, effective skill transfer, and ongoing, in-class instruction;

"(4) the establishment of teleconferencing facilities and resources for making interactive training available to teachers;

"(5) obtaining technical assistance; and

"(6) the coordination of the design and connectivity of telecommunications networks to reach the greatest number of schools.

"(b) **DURATION.**—

"(1) **IN GENERAL.**—The Secretary shall award grants pursuant to subsection (a) for a period of 5 years.

"(2) **RENEWAL.**—Grants awarded pursuant to subsection (a) may be renewed for one additional three-year period.

"(c) **AUTHORIZATION OF APPROPRIATIONS.**—

"(1) **IN GENERAL.**—There are authorized to be appropriated \$35,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this part.

"(2) **AVAILABILITY.**—Funds appropriated pursuant to the authority of subsection (a) shall remain available until expended.

"(d) **LIMITATIONS.**—

"(1) **IN GENERAL.**—A grant under this section shall not exceed—

"(A) five years in duration; and

"(B) \$10,000,000 in any one fiscal year.

"(2) **INSTRUCTIONAL PROGRAMMING.**—Not less than 25 percent of the funds available to the Secretary in any fiscal year under this part shall be used for the cost of instructional programming.

"(3) **SPECIAL RULE.**—Not less than 50 percent of the funds available in any fiscal year under this part shall be used for the cost of facilities, equipment, teacher training or retraining, technical assistance, or programming, for local educational agencies which are eligible to receive assistance under part A of title I.

"(e) **FEDERAL SHARE.**—

"(1) **IN GENERAL.**—The Federal share of the cost of projects funded under this section shall not exceed—

"(A) 75 percent for the first and second years for which an eligible telecommunications partnership receives a grant under this part;

"(B) 60 percent for the third and fourth such years; and

"(C) 50 percent for the fifth such year.

"(2) **REDUCTION OR WAIVER.**—The Secretary may reduce or waive the requirement of the non-Federal share under paragraph (1) upon a showing of financial hardship.

"(f) **AUTHORITY TO ACCEPT FUNDS FROM OTHER AGENCIES.**—The Secretary is authorized to accept funds from other Federal departments or agencies to carry out the purposes of this section, including funds for the purchase of equipment.

"(g) **COORDINATION.**—The Department, the National Science Foundation, the Department of Agriculture, the Department of Commerce, and any other Federal department or agency operating a telecommunications network for educational purposes, shall coordinate the activities assisted under this part with the activities of such department or agency relating to a telecommunications network for educational purposes.

"(h) **CLOSED CAPTIONING AND DESCRIPTIVE VIDEO.**—Each entity receiving funds under this part is encouraged to provide—

"(1) closed captioning of the verbal content of such program, where appropriate, to be broadcast by way of line 21 of the vertical blanking interval, or by way of comparable successor technologies; and

"(2) descriptive video of the visual content of such program, as appropriate.

**"SEC. 3205. ELIGIBLE ENTITIES.**

"(a) **ELIGIBLE ENTITIES.**—

"(1) **REQUIRED PARTICIPATION.**—The Secretary may make a grant under section 3204 to any eligible entity, if at least one local educational agency is participating in the proposed project.

"(2) **ELIGIBLE ENTITY.**—For the purpose of this part, the term 'eligible entity' may include—

"(A) a public agency or corporation established for the purpose of developing and operating telecommunications networks to enhance educational opportunities provided by educational institutions, teacher training centers, and other entities, except that any such agency or corporation shall represent the interests of elementary and secondary schools that are eligible to participate in the program under part A of title I; or

"(B) a partnership that will provide telecommunications services and which includes 3 or more of the following entities, at least 1 of which shall be an agency described in clause (i) or (ii):

"(i) a local educational agency that serves a significant number of elementary and secondary schools that are eligible for assistance under part A of title I, or elementary and secondary schools operated or funded for Indian children

by the Department of the Interior eligible under section 1121(b)(2);

"(ii) a State educational agency;

"(iii) adult and family education programs;

"(iv) an institution of higher education or a State higher education agency;

"(v) a teacher training center or academy that—

"(I) provides teacher pre-service and in-service training; and

"(II) receives Federal financial assistance or has been approved by a State agency;

"(vi) (I) a public or private entity with experience and expertise in the planning and operation of a telecommunications network, including entities involved in telecommunications through satellite, cable, telephone, or computer; or

"(II) a public broadcasting entity with such experience; or

"(vii) a public or private elementary or secondary school.

"(b) **SPECIAL RULE.**—An eligible entity receiving assistance under this part shall be organized on a statewide or multistate basis.

**"SEC. 3206. APPLICATIONS.**

"(a) **APPLICATIONS REQUIRED.**—Each eligible entity which desires to receive a grant under section 3204 shall submit an application to the Secretary, at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(b) **STAR SCHOOL AWARD APPLICATIONS.**—Each application submitted pursuant to subsection (a) shall—

"(1) describe how the proposed project will assist in achieving the National Education Goals, how such project will assist all students to have an opportunity to learn to challenging State standards, how such project will assist State and local educational reform efforts, and how such project will contribute to creating a high quality system of lifelong learning;

"(2) describe the telecommunications facilities and equipment and technical assistance for which assistance is sought, which may include—

"(A) the design, development, construction, acquisition, maintenance and operation of State or multistate educational telecommunications networks and technology resource centers;

"(B) microwave, fiber optics, cable, and satellite transmission equipment or any combination thereof;

"(C) reception facilities;

"(D) satellite time;

"(E) production facilities;

"(F) other telecommunications equipment capable of serving a wide geographic area;

"(G) the provision of training services to instructors who will be using the facilities and equipment for which assistance is sought, including training in using such facilities and equipment and training in integrating programs into the classroom curriculum; and

"(H) the development of educational and related programming for use on a telecommunications network;

"(3) in the case of an application for assistance for instructional programming, describe the types of programming which will be developed to enhance instruction and training and provide assurances that such programming will be designed in consultation with professionals (including classroom teachers) who are experts in the applicable subject matter and grade level;

"(4) describe how the eligible entity has engaged in sufficient survey and analysis of the area to be served to ensure that the services offered by the eligible entity will increase the availability of courses of instruction in English, mathematics, science, foreign languages, arts, history, geography, or other disciplines;

"(5) describe the professional development policies for teachers and other school personnel

to be implemented to ensure the effective use of the telecommunications facilities and equipment for which assistance is sought;

"(6) describe the manner in which historically underserved students (such as students from low-income families, limited English proficient students, students with disabilities, or students who have low literacy skills) and their families, will participate in the benefits of the telecommunications facilities, equipment, technical assistance, and programming assisted under this part;

"(7) describe how existing telecommunications equipment, facilities, and services, where available, will be used;

"(8) provide assurances that the financial interest of the United States in the telecommunications facilities and equipment will be protected for the useful life of such facilities and equipment;

"(9) provide assurances that a significant portion of any facilities and equipment, technical assistance, and programming for which assistance is sought for elementary and secondary schools will be made available to schools or local educational agencies that have a high number or percentage of children eligible to be counted under part A of title I;

"(10) provide assurances that the applicant will use the funds provided under this part to supplement and not supplant funds otherwise available for the purposes of this part;

"(11) if any member of the consortia receives assistance under subpart 3 of part A, describe how funds received under this part will be coordinated with funds received for educational technology in the classroom under such section;

"(12) describe the activities or services for which assistance is sought, such as—

"(A) providing facilities, equipment, training services, and technical assistance;

"(B) making programs accessible to students with disabilities through mechanisms such as closed captioning and descriptive video services;

"(C) linking networks around issues of national importance (such as elections) or to provide information about employment opportunities, job training, or student and other social service programs;

"(D) sharing curriculum resources between networks and development of program guides which demonstrate cooperative, cross-network listing of programs for specific curriculum areas;

"(E) providing teacher and student support services including classroom and training support materials which permit student and teacher involvement in the live interactive distance learning telecasts;

"(F) incorporating community resources such as libraries and museums into instructional programs;

"(G) providing professional development for teachers, including, as appropriate, training to early childhood development and Head Start teachers and staff and vocational education teachers and staff, and adult and family educators;

"(H) providing programs for adults to maximize the use of telecommunications facilities and equipment;

"(I) providing teacher training on proposed or established voluntary national content standards in mathematics and science and other disciplines as such standards are developed; and

"(J) providing parent education programs during and after the regular school day which reinforce a student's course of study and actively involve parents in the learning process;

"(13) describe how the proposed project as a whole will be financed and how arrangements for future financing will be developed before the project expires;

"(14) provide an assurance that a significant portion of any facilities, equipment, technical

assistance, and programming for which assistance is sought for elementary and secondary schools will be made available to schools in local educational agencies that have a high percentage of children counted for the purpose of part A of title I;

"(15) provide an assurance that the applicant will provide such information and cooperate in any evaluation that the Secretary may conduct under this part; and

"(16) include such additional assurances as the Secretary may reasonably require.

"(c) PRIORITIES.—The Secretary, in approving applications for grants authorized under section 3204, shall give priority to applications describing projects that—

"(1) propose high-quality plans to assist in achieving one or more of the National Education Goals, will provide instruction consistent with State content standards, or will otherwise provide significant and specific assistance to States and local educational agencies undertaking systemic education reform;

"(2) will provide services to programs serving adults, especially parents, with low levels of literacy;

"(3) will serve schools with significant numbers of children counted for the purposes of part A of title I;

"(4) ensure that the eligible entity will—

"(A) serve the broadest range of institutions, programs providing instruction outside of the school setting, programs serving adults, especially parents, with low levels of literacy, institutions of higher education, teacher training centers, research institutes, and private industry;

"(B) have substantial academic and teaching capabilities, including the capability of training, retraining, and inservice upgrading of teaching skills and the capability to provide professional development;

"(C) provide a comprehensive range of courses for educators to teach instructional strategies for students with different skill levels;

"(D) provide training to participating educators in ways to integrate telecommunications courses into existing school curriculum; and

"(E) provide instruction for students, teachers, and parents;

"(F) serve a multistate area; and

"(G) give priority to the provision of equipment and linkages to isolated areas; and

"(5) involve a telecommunications entity (such as a satellite, cable, telephone, computer, or public or private television stations) participating in the eligible entity and donating equipment or in kind services for telecommunications linkages.

"(d) GEOGRAPHIC DISTRIBUTION.—In approving applications for grants authorized under section 3204, the Secretary shall, to the extent feasible, ensure an equitable geographic distribution of services provided under this part.

#### "SEC. 3207. LEADERSHIP AND EVALUATION ACTIVITIES.

"(a) RESERVATION.—From the amount appropriated pursuant to the authority of section 3204(c)(1) in each fiscal year, the Secretary may reserve not more than 5 percent of such amount for national leadership, evaluation, and peer review activities.

"(b) METHOD OF FUNDING.—The Secretary may fund the activities described in subsection (a) directly or through grants, contracts, and cooperative agreements.

"(c) USES OF FUNDS.—

"(1) LEADERSHIP.—Funds reserved for leadership activities under subsection (a) may be used for—

"(A) disseminating information, including lists and descriptions of services available from grant recipients under this part; and

"(B) other activities designed to enhance the quality of distance learning activities nationwide.

"(2) EVALUATION.—Funds reserved for evaluation activities under subsection (a) may be used to conduct independent evaluations of the activities assisted under this part and of distance learning in general, including—

"(A) analyses of distance learning efforts, including such efforts that are assisted under this part and such efforts that are not assisted under this part; and

"(B) comparisons of the effects, including student outcomes, of different technologies in distance learning efforts.

"(3) PEER REVIEW.—Funds reserved for peer review activities under subsection (a) may be used for peer review of—

"(A) applications for grants under this part; and

"(B) activities assisted under this part.

#### "SEC. 3208. DEFINITIONS.

"As used in this part—

"(1) the term 'educational institution' means an institution of higher education, a local educational agency, or a State educational agency;

"(2) the term 'instructional programming' means courses of instruction and training courses for elementary and secondary students, teachers, and others, and materials for use in such instruction and training that have been prepared in audio and visual form on tape, disc, film, or live, and presented by means of telecommunications devices; and

"(3) the term 'public broadcasting entity' has the same meaning given such term in section 397 of the Communications Act of 1934.

#### "SEC. 3209. ADMINISTRATIVE PROVISIONS.

"(a) CONTINUING ELIGIBILITY.—

"(1) IN GENERAL.—In order to be eligible to receive a grant under section 3204 for a second 3-year grant period an eligible entity shall demonstrate in the application submitted pursuant to section 3206 that such partnership shall—

"(A) continue to provide services in the subject areas and geographic areas assisted with funds received under this part for the previous 5-year grant period; and

"(B) use all grant funds received under this part for the second 3-year grant period to provide expanded services by—

"(i) increasing the number of students, schools or school districts served by the courses of instruction assisted under this part in the previous fiscal year;

"(ii) providing new courses of instruction; and

"(iii) serving new populations of underserved individuals, such as children or adults who are disadvantaged, have limited-English proficiency, are individuals with disabilities, are illiterate, or lack secondary school diplomas or their recognized equivalent.

"(2) SPECIAL RULE.—Grant funds received pursuant to paragraph (1) shall be used to supplement and not supplant services provided by the grant recipient under this part in the previous fiscal year.

"(b) FEDERAL ACTIVITIES.—The Secretary may assist grant recipients under section 3204 in acquiring satellite time, where appropriate, as economically as possible.

#### "SEC. 3210. OTHER ASSISTANCE.

"(a) SPECIAL STATEWIDE NETWORK.—

"(1) IN GENERAL.—The Secretary, through the Office of Educational Technology, may provide assistance to a statewide telecommunications network under this subsection if such network—

"(A) provides 2-way full motion interactive video and audio communications;

"(B) links together public colleges and universities and secondary schools throughout the State; and

"(C) meets any other requirements determined appropriate by the Secretary.

"(2) STATE CONTRIBUTION.—A statewide telecommunications network assisted under paragraph (1) shall contribute, either directly or

through private contributions, non-Federal funds equal to not less than 50 percent of the cost of such network.

"(b) SPECIAL LOCAL NETWORK.—

"(1) IN GENERAL.—The Secretary may provide assistance, on a competitive basis, to a local educational agency or consortium thereof to enable such agency or consortium to establish a high technology demonstration program.

"(2) PROGRAM REQUIREMENTS.—A high technology demonstration program assisted under paragraph (1) shall—

"(A) include 2-way full motion interactive video, audio and text communications;

"(B) link together elementary and secondary schools, colleges, and universities;

"(C) provide parent participation and family programs;

"(D) include a staff development program; and

"(E) have a significant contribution and participation from business and industry.

"(3) SPECIAL RULE.—Each high technology demonstration program assisted under paragraph (1) shall be of sufficient size and scope to have an effect on meeting the National Education Goals.

"(4) MATCHING REQUIREMENT.—A local educational agency or consortium receiving a grant under paragraph (1) shall provide, either directly or through private contributions, non-Federal matching funds equal to not less than 50 percent of the amount of the grant.

"(c) TELECOMMUNICATIONS PROGRAMS FOR CONTINUING EDUCATION.—

"(1) AUTHORITY.—The Secretary is authorized to award grants, on a competitive basis, to eligible entities to enable such partnerships to develop and operate one or more programs which provide on-line access to educational resources in support of continuing education and curriculum requirements relevant to achieving a secondary school diploma or its recognized equivalent. The program authorized by this section shall be designed to advance adult literacy, secondary school completion and the acquisition of specified competency by the end of the 12th grade, as envisioned by the Goals 2000: Educate America Act.

"(2) APPLICATION.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary. Each such application shall—

"(A) demonstrate that the applicant will use publicly funded or free public telecommunications infrastructure to deliver video, voice and data in an integrated service to support and assist in the acquisition of a secondary school diploma or its recognized equivalent;

"(B) assure that the content of the materials to be delivered is consistent with the accreditation requirements of the State for which such materials are used;

"(C) incorporate, to the extent feasible, materials developed in the Federal departments and agencies and under appropriate federally funded projects and programs;

"(D) assure that the applicant has the technological and substantive experience to carry out the program; and

"(E) contain such additional assurances as the Secretary may reasonably require.

#### **PART C—READY-TO-LEARN TELEVISION**

##### **"SEC. 3301. READY-TO-LEARN.**

"(a) IN GENERAL.—The Secretary is authorized to award grants to or enter into contracts or cooperative agreements with eligible entities described in section 3302(b) to develop, produce, and distribute educational and instructional video programming for preschool and elementary school children and their parents in order to facilitate the achievement of the National Education Goals.

"(b) AVAILABILITY.—In making such grants, contracts, or cooperative agreements, the Sec-

retary shall ensure that recipients make programming widely available with support materials as appropriate to young children, their parents, child care workers, and Head Start providers to increase the effective use of such programming.

##### **"SEC. 3302. EDUCATIONAL PROGRAMMING.**

"(a) AWARDS.—The Secretary shall award grants, contracts, or cooperative agreements to eligible entities to—

"(1) facilitate the development directly or through contracts with producers of children and family educational television programming, educational programming for preschool and elementary school children, and accompanying support materials and services that promote the effective use of such programming; and

"(2) enable such entities to contract with entities (such as public telecommunications entities and those funded under the Star Schools Act) so that programs developed under this section are disseminated and distributed to the widest possible audience appropriate to be served by the programming by the most appropriate distribution technologies.

"(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant, contract, or cooperative agreement under subsection (a), an entity shall be—

"(1) a nonprofit entity (including a public telecommunications entity) able to demonstrate a capacity for the development and distribution of educational and instructional television programming of high quality for preschool and elementary school children; and

"(2) able to demonstrate a capacity to contract with the producers of children's television programming for the purpose of developing educational television programming of high quality for preschool and elementary school children.

"(c) CULTURAL EXPERIENCES.—Programming developed under this section shall reflect the recognition of diverse cultural experiences and the needs and experiences of both boys and girls in engaging and preparing young children for schooling.

##### **"SEC. 3303. DUTIES OF SECRETARY.**

"The Secretary is authorized—

"(1) to establish and administer a Special Projects of National Significance program to award grants, contracts, or cooperative agreements to public and nonprofit private entities, or local public television stations or such public television stations that are part of a consortium with one or more State educational agencies, local educational agencies, local schools, institutions of higher education, or community-based organizations of demonstrated effectiveness, for the purpose of—

"(A) addressing the learning needs of young children in limited English proficient households, and developing appropriate educational and instructional television programming to foster the school readiness of such children;

"(B) developing programming and support materials to increase family literacy skills among parents to assist parents in teaching their children and utilizing educational television programming to promote school readiness; and

"(C) identifying, supporting, and enhancing the effective use and outreach of innovative programs that promote school readiness;

"(2) to establish within the Department a clearinghouse to compile and provide information, referrals and model program materials and programming obtained or developed under this part to parents, child care providers, and other appropriate individuals or entities to assist such individuals and entities in accessing programs and projects under this part; and

"(3) to develop and disseminate training materials, including—

"(A) interactive programs and programs adaptable to distance learning technologies that

are designed to enhance knowledge of children's social and cognitive skill development and positive adult-child interactions; and

"(B) support materials to promote the effective use of materials developed under paragraph (2); among parents, Head Start providers, in-home and center based day care providers, early childhood development personnel, and elementary school teachers, public libraries, and after school program personnel caring for preschool and elementary school children;

"(4) coordinate activities with the Secretary of Health and Human Services in order to—

"(A) maximize the utilization of quality educational programming by preschool and elementary school children, and make such programming widely available to federally funded programs serving such populations; and

"(B) provide information to recipients of funds under Federal programs that have major training components for early childhood development, including Head Start, Even Start, and State training activities funded under the Child Care Development Block Grant Act of 1990 regarding the availability and utilization of materials developed under paragraph (3) to enhance parent and child care provider skills in early childhood development and education.

##### **"SEC. 3304. APPLICATIONS.**

"Each eligible entity desiring a grant, contract, or cooperative agreement under section 3301 or 3303 shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

##### **"SEC. 3305. REPORTS AND EVALUATION.**

"(a) ANNUAL REPORT TO SECRETARY.—An entity receiving funds under section 3301 shall prepare and submit to the Secretary an annual report which contains such information as the Secretary may require. At a minimum, the report shall describe the program activities undertaken with funds received under this section, including—

"(1) the programming that has been developed directly or indirectly by the entity, and the target population of the programs developed;

"(2) the support materials that have been developed to accompany the programming, and the method by which such materials are distributed to consumers and users of the programming;

"(3) the means by which programming developed under this section has been distributed, including the distance learning technologies that have been utilized to make programming available and the geographic distribution achieved through such technologies; and

"(4) the initiatives undertaken by the entity to develop public-private partnerships to secure non-Federal support for the development and distribution and broadcast of educational and instructional programming.

"(b) REPORT TO CONGRESS.—The Secretary shall prepare and submit to the relevant committees of Congress a biannual report which includes—

"(1) a summary of the information made available under section 3302(a); and

"(2) a description of the training materials made available under section 3303(3), the manner in which outreach has been conducted to inform parents and child care providers of the availability of such materials, and the manner in which such materials have been distributed in accordance with such section.

##### **"SEC. 3306. ADMINISTRATIVE COSTS.**

"With respect to the implementation of section 3302, entities receiving a grant, contract, or cooperative agreement from the Secretary may use not more than 5 percent of the amounts received under such section for the normal and customary expenses of administering the grant, contract, or cooperative agreement.

**"SEC. 3307. DEFINITION.**

"For the purposes of this part, the term 'distance learning' means the transmission of educational or instructional programming to geographically dispersed individuals and groups via telecommunications.

**"SEC. 3308. AUTHORIZATION OF APPROPRIATIONS.**

"(a) **IN GENERAL.**—There are authorized to be appropriated to carry out this part, \$30,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years. Not less than 60 percent of the amounts appropriated under this subsection for each fiscal year shall be used to carry out section 3302.

"(b) **SPECIAL PROJECTS.**—Of the amount appropriated under subsection (b) for each fiscal year, at least 10 percent of such amount shall be used for each such fiscal year for activities under section 3303(1)(C).

**"PART D—TELECOMMUNICATIONS DEMONSTRATION PROJECT FOR MATHEMATICS****"SEC. 3401. PROJECT AUTHORIZED.**

"The Secretary is authorized to make grants to a nonprofit telecommunications entity, or partnership of such entities, for the purpose of carrying out a national telecommunications-based demonstration project to improve the teaching of mathematics. The demonstration project authorized by this part shall be designed to assist elementary and secondary school teachers in preparing all students for achieving State content standards.

**"SEC. 3402. APPLICATION REQUIRED.**

"(a) **IN GENERAL.**—Each nonprofit telecommunications entity, or partnership of such entities, desiring a grant under this part shall submit an application to the Secretary. Each such application shall—

"(1) demonstrate that the applicant will use the existing publicly funded telecommunications infrastructure to deliver video, voice and data in an integrated service to train teachers in the use of new standards-based curricula materials and learning technologies;

"(2) assure that the project for which assistance is sought will be conducted in cooperation with appropriate State educational agencies, local educational agencies, State or local nonprofit public telecommunications entities, and a national mathematics education professional association that has developed content standards;

"(3) assure that a significant portion of the benefits available for elementary and secondary schools from the project for which assistance is sought will be available to schools of local educational agencies which have a high percentage of children counted for the purpose of part A of title I; and

"(4) contain such additional assurances as the Secretary may reasonably require.

"(b) **APPROVAL OF APPLICATIONS; NUMBER OF DEMONSTRATION SITES.**—In approving applications under this section, the Secretary shall assure that the demonstration project authorized by this part is conducted at elementary and secondary school sites in at least 15 States.

**"SEC. 3403. AUTHORIZATION OF APPROPRIATIONS.**

"There are authorized to be appropriated to carry out this part, \$5,000,000 for the fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years.

**"PART E—ELEMENTARY MATHEMATICS AND SCIENCE EQUIPMENT PROGRAM****"SEC. 3501. SHORT TITLE.**

"This part may be cited as the 'Elementary Mathematics and Science Equipment Act'.

**"SEC. 3502. STATEMENT OF PURPOSE.**

"It is the purpose of this part to raise the quality of instruction in mathematics and

science in the Nation's elementary schools by providing equipment and materials necessary for hands-on instruction through assistance to State and local educational agencies.

**"SEC. 3503. PROGRAM AUTHORIZED.**

"The Secretary is authorized to make allotments to State educational agencies under section 3504 to enable such agencies to award grants to local educational agencies for the purpose of providing equipment and materials to elementary schools to improve mathematics and science education in such schools.

**"SEC. 3504. ALLOTMENTS OF FUNDS.**

"(a) **IN GENERAL.**—From the amount appropriated under section 3509 for any fiscal year, the Secretary shall reserve—

"(1) not more than one-half of 1 percent for allotment among Guam, American Samoa, the Virgin Islands, and the Northern Mariana Islands according to their respective needs for assistance under this part; and

"(2) one-half of 1 percent for programs for Indian students served by schools funded by the Secretary of the Interior which are consistent with the purposes of this part.

**"(b) ALLOTMENT.—**

"(1) **IN GENERAL.**—The remainder of the amount so appropriated (after meeting requirements in subsection (a)) shall be allotted among State educational agencies so that—

"(A) one-half of such remainder shall be distributed by allotting to each State educational agency an amount which bears the same ratio to such one-half of such remainder as the number of children aged 5 to 17, inclusive, in the State bears to the number of such children in all States; and

"(B) one-half of such remainder shall be distributed according to each State's share of allocations under part A of title I.

"(2) **MINIMUM.**—Except as provided in paragraph (3), no State educational agency shall receive an allotment under this subsection for any fiscal year in an amount that is—

"(A) less than one-half of 1 percent of the amount made available under this subsection for such fiscal year; or

"(B) less than the amount allotted to such State for fiscal year 1988 under title II of the Education for Economic Security Act.

"(3) **RATABLE REDUCTIONS.**—(A) If the sums made available under this part for any fiscal year are insufficient to pay the full amounts that all State educational agencies are eligible to receive under paragraph (2)(B) for such year, the Secretary shall ratably reduce the allotment to such agencies for such year.

"(B) If additional funds become available for making payments under paragraph (2)(B) for such fiscal year, allotments that were reduced under subparagraph (A) shall be increased on the same basis as such allotments were reduced.

"(c) **REALLOTMENT OF UNUSED FUNDS.**—The amount of any State educational agency's allotment under subsection (b) for any fiscal year to carry out this part which the Secretary determines will not be required for that fiscal year to carry out this part shall be available for reallocation from time to time, on such dates during that year as the Secretary may determine, to other State educational agencies in proportion to the original allotments to those State educational agencies under subsection (b) for that year but with such proportionate amount for any of those other State educational agencies being reduced to the extent it exceeds the sum the Secretary estimates that the State educational agency needs and will be able to use for that year, and the total of those reductions shall be similarly reallocated among the State educational agencies whose proportionate amounts were not so reduced. Any amounts reallocated to a State educational agency under this subsection during a year shall be deemed a

part of the State educational agency's allotment under subsection (b) for that year.

"(d) **DEFINITION.**—For the purposes of this part the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(e) **DATA.**—The number of children aged 5 to 17, inclusive, in the State and in all States shall be determined by the Secretary on the basis of the most recent satisfactory data available to the Secretary.

**"SEC. 3505. STATE APPLICATION.**

"(a) **APPLICATION.**—Each State educational agency desiring to receive an allotment under this part shall file an application with the Secretary which covers a period of 5 fiscal years. Such application shall be filed at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(b) **CONTENTS OF APPLICATION.**—Each application described in subsection (a) shall—

"(1) provide assurances that—

"(A) the State educational agency shall use the allotment provided under this part to award grants to local educational agencies within the State to enable such local educational agencies to provide assistance to schools served by such agency to carry out the purpose of this part;

"(B) the State educational agency will provide such fiscal control and funds accounting as the Secretary may require;

"(C) every public elementary school in the State is eligible to receive assistance under this part once over the 5-year duration of the program assisted under this part;

"(D) funds provided under this part will supplement, not supplant, State and local funds made available for activities authorized under this part;

"(E) during the 5-year period described in the application, the State educational agency will evaluate its standards and programs for teacher preparation and inservice professional development for elementary mathematics and science;

"(F) the State educational agency will take into account the needs for greater access to and participation in mathematics and science by students and teachers from historically underrepresented groups, including females, minorities, individuals with limited English proficiency, the economically disadvantaged, and individuals with disabilities; and

"(G) that the needs of teachers and students in areas with high concentrations of low-income students and sparsely populated areas will be given priority in awarding assistance under this part;

"(2) provide, if appropriate, a description of how funds paid under this part will be coordinated with State and local funds and other Federal resources, particularly with respect to programs for the professional development and inservice training of elementary school teachers in science and mathematics; and

"(3) describe procedures—

"(A) for submitting applications for programs described in section 3506 for distribution of assistance under this part within the State; and

"(B) for approval of applications by the State educational agency, including appropriate procedures to assure that such agency will not disapprove an application without notice and opportunity for a hearing.

"(c) **STATE ADMINISTRATION.**—Not more than 5 percent of the funds allotted to each State educational agency under this part shall be used for the administrative costs of such agency associated with carrying out the program assisted under this part.

**"SEC. 3506. LOCAL APPLICATION.**

"(a) **APPLICATION.**—A local educational agency that desires to receive a grant under this part shall submit an application to the State educational agency. Each such application shall

contain assurances that each school served by the local educational agency shall be eligible for assistance under this part only once.

"(b) CONTENTS OF APPLICATION.—Each application described in subsection (a) shall—

"(1) describe how the local educational agency plans to set priorities on the use and distribution among schools of grant funds received under this part to meet the purpose of this part;

"(2) include assurances that the local educational agency has made every effort to match on a dollar-for-dollar basis from private or public sources the funds received under this part, except that no such application shall be penalized or denied assistance under this part based on failure to provide such matching funds;

"(3) describe, if applicable, how funds under this part will be coordinated with State, local, and other Federal resources, especially with respect to programs for the professional development and inservice training of elementary school teachers in science and mathematics; and

"(4) describe the process which will be used to determine different levels of assistance to be awarded to schools with different needs.

"(c) PRIORITY.—In awarding grants under this part, the State educational agency shall give priority to applications that—

"(1) assign highest priority to providing assistance to schools which—

"(A) are most seriously underequipped; or

"(B) serve large numbers or percentages of economically disadvantaged students;

"(2) are attentive to the needs of underrepresented groups in science and mathematics;

"(3) demonstrate how science and mathematics equipment will be part of a comprehensive plan of curriculum planning or implementation and teacher training supporting hands-on laboratory activities; and

"(4) assign priority to providing equipment and materials for students in grades 1 through 6.

#### "SEC. 3507. PROGRAM REQUIREMENTS.

"(a) COORDINATION.—Each State educational agency receiving an allotment under this part shall—

"(1) disseminate information to school districts and schools, including private nonprofit elementary schools, regarding the program assisted under this part;

"(2) evaluate applications of local educational agencies;

"(3) award grants to local educational agencies based on the priorities described in section 3506(c); and

"(4) evaluate local educational agencies' end-of-year summaries and submit such evaluation to the Secretary.

#### "(b) LIMITATIONS ON USE OF FUNDS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), grant funds and matching funds under this part only shall be used to purchase science equipment, science materials, or mathematical manipulative materials and shall not be used for computers, computer peripherals, software, textbooks, or staff development costs.

"(2) CAPITAL IMPROVEMENTS.—Grant funds under this part may not be used for capital improvements. Not more than 50 percent of any matching funds provided by the local educational agency may be used for capital improvements of classroom science facilities to support the hands-on instruction that this part is intended to support, such as the installation of electrical outlets, plumbing, lab tables or counters, or ventilation mechanisms.

#### "SEC. 3508. FEDERAL ADMINISTRATION.

"(a) TECHNICAL ASSISTANCE AND EVALUATION PROCEDURES.—The Secretary shall provide technical assistance and, in consultation with State and local representatives of the program assisted under this part, shall develop procedures for State and local evaluations of the programs assisted under this part.

"(b) REPORT.—The Secretary shall report to the Congress each year on the program assisted under this part in accordance with section 10701.

#### "SEC. 3509. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated \$30,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this part.

#### "PART F—ELEMENTARY AND SECONDARY SCHOOL LIBRARY MEDIA RESOURCES PROGRAM

##### "SEC. 3601. PROGRAM AUTHORIZED.

"The Secretary shall award grants or make allocations in accordance with section 3602 for the acquisition of school library media resources for the use of students, library media specialists, and teachers in elementary and secondary schools in accordance with this part.

##### "SEC. 3602. ALLOCATION TO STATES.

"(a) From the amount appropriated pursuant to section 3605 in each fiscal year, the Secretary shall award funds to each State having an approved plan under section 3603 as follows:

"(1) AMOUNTS BELOW \$50,000,000.—If the amount made available under subsection (a) for a fiscal year is less than \$50,000,000, then the Secretary shall award grants to States, on a competitive basis, taking into account such factors as age and condition of existing school library media collections and the relative economic need of the students to be served.

"(2) AMOUNTS EQUAL TO OR EXCEEDING \$50,000,000.—If the amount made available under subsection (a) for a fiscal year equals or exceeds \$50,000,000, then the Secretary shall allocate to each State an amount which bears the same relationship to such amount as the amount such State received under title II for such year bears to the amount all States received under such title for such year.

##### "SEC. 3603. STATE PLANS.

"(a) IN GENERAL.—In order for a State to receive a grant or an allocation of funds under this part for any fiscal year, such State shall have in effect for such fiscal year a State plan. Such plan shall—

"(1) designate the State educational agency as the State agency responsible for the administration of the program assisted under this part;

"(2) set forth a program under which funds paid to the State in accordance with section 3602 will be expended solely for—

"(A) acquisition of school library media resources, including books and foreign language resources, for the use of students, school library media specialists, and teachers in elementary and secondary schools in the United States; and

"(B) administration of the State plan, including development and revision of standards, relating to school library media resources, except that the amount used for administration of the State plan in any fiscal year shall not exceed three percent of the amount available to such State under section 3602 for such fiscal year; and

"(3) set forth criteria to be used in allotting funds for school library media resources among the local educational agencies of the State, which allotment shall take into consideration the relative need of the students, school media specialists, and teachers to be served.

"(b) PLAN SUBMISSION.—The State plan may be submitted as part of a consolidated application under section 14302.

##### "SEC. 3604. DISTRIBUTION OF ALLOCATION TO LOCAL EDUCATIONAL AGENCIES.

"From the funds allocated to a State under section 3602(2) in each fiscal year, such State shall distribute not less than 97 percent of such funds in such year to local educational agencies within such State according to the relative en-

rollment of students in elementary and secondary schools within the school districts of such State, adjusted to provide higher per pupil allotments to local educational agencies that have the greatest number or percentages of students whose education imposes a higher than average cost per child, such as those students—

"(1) living in areas with high concentrations of low-income families;

"(2) from low-income families; and

"(3) living in sparsely populated areas.

##### "SEC. 3605. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part \$200,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

#### "TITLE IV—SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES

##### "SEC. 4001. SHORT TITLE.

"This title may be cited as the 'Safe and Drug-Free Schools and Communities Act of 1994'.

##### "SEC. 4002. FINDINGS.

"The Congress finds as follows:

"(1) The seventh National Education Goal provides that by the year 2000, all schools in America will be free of drugs and violence and the unauthorized presence of firearms and alcohol, and offer a disciplined environment that is conducive to learning.

"(2) The widespread illegal use of alcohol and other drugs among the Nation's secondary school students, and increasingly by students in elementary schools as well, constitutes a grave threat to such students' physical and mental well-being, and significantly impedes the learning process. For example, data show that students who drink tend to receive lower grades and are more likely to miss school because of illness than students who do not drink.

"(3) Our Nation's schools and communities are increasingly plagued by violence and crime. Approximately 3,000,000 thefts and violent crimes occur in or near our Nation's schools every year, the equivalent of more than 16,000 incidents per school day.

"(4) Violence that is linked to prejudice and intolerance victimizes entire communities leading to more violence and discrimination.

"(5) The tragic consequences of violence and the illegal use of alcohol and drugs by students are felt not only by students and such students' families, but by such students' communities and the Nation, which can ill afford to lose such students' skills, talents, and vitality.

"(6) While use of illegal drugs is a serious problem among a minority of teenagers, alcohol use is far more widespread. The proportion of high school students using alcohol, though lower than a decade ago, remains unacceptably high. By the 8th grade, 70 percent of youth report having tried alcohol and by the 12th grade, about 88 percent have used alcohol. Alcohol use by young people can and does have adverse consequences for users, their families, communities, schools, and colleges.

"(7) Alcohol and tobacco are widely used by young people. Such use can, and does, have adverse consequences for young people, their families, communities, schools, and colleges. Drug prevention programs for youth that address only controlled drugs send an erroneous message that alcohol and tobacco do not present significant problems, or that society is willing to overlook their use. To be credible, messages opposing illegal drug use by youth should address alcohol and tobacco as well.

"(8) Every day approximately 3,000 children start smoking. Thirty percent of all secondary school seniors are smokers. Half of all new smokers begin smoking before the age of 14, 90 percent of such smokers begin before the age of

21, and the average age of the first use of smokeless tobacco is under the age of 10. Use of tobacco products has been linked to serious health problems. Drug education and prevention programs that include tobacco have been effective in reducing teenage use of tobacco.

"(9) Drug and violence prevention programs are essential components of a comprehensive strategy to promote school safety and to reduce the demand for and use of drugs throughout the Nation. Schools and local organizations in communities throughout the Nation have a special responsibility to work together to combat the growing epidemic of violence and illegal drug use and should measure the success of their programs against clearly defined goals and objectives.

"(10) Students must take greater responsibility for their own well-being, health, and safety if schools and communities are to achieve the goals of providing a safe, disciplined, and drug-free learning environment.

**"SEC. 4003. PURPOSE.**

"The purpose of this title is to support programs to meet the seventh National Education Goal by preventing violence in and around schools and by strengthening programs that prevent the illegal use of alcohol, tobacco, and drugs, involve parents, and are coordinated with related Federal, State, and community efforts and resources, through the provision of Federal assistance to—

"(1) States for grants to local educational agencies and educational service agencies and consortia of such agencies to establish, operate, and improve local programs of school drug and violence prevention, early intervention, rehabilitation referral, and education in elementary and secondary schools (including intermediate and junior high schools);

"(2) States for grants to, and contracts with, community-based organizations and other public and private nonprofit agencies and organizations for programs of drug and violence prevention, early intervention, rehabilitation referral, and education;

"(3) States for development, training, technical assistance, and coordination activities;

"(4) public and private nonprofit organizations to conduct training, demonstrations, and evaluation, and to provide supplementary services for the prevention of drug use and violence among students and youth; and

"(5) institutions of higher education to establish, operate, expand, and improve programs of school drug and violence prevention, education, and rehabilitation referral for students enrolled in colleges and universities.

**"SEC. 4004. FUNDING.**

"There are authorized to be appropriated—

"(1) \$630,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, for State grants under subpart 1; and

"(2) \$25,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, for national programs under subpart 2.

**"PART A—STATE GRANTS FOR DRUG AND VIOLENCE PREVENTION PROGRAMS**

**"Subpart 1—State Grants for Drug and Violence Prevention Programs**

**"SEC. 4011. RESERVATIONS AND ALLOTMENTS.**

"(a) RESERVATIONS.—From the amount made available under section 4004(a) to carry out this subpart for each fiscal year, the Secretary—

"(1) shall reserve 1 percent of such amount for grants under this subpart to Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands, to be allotted in accordance with the Secretary's determination of their respective needs;

"(2) shall reserve 1 percent of such amount for the Secretary of the Interior to carry out programs under this part for Indian youth;

"(3) may reserve not more than \$1,000,000 for the national impact evaluation required by section 4117(a); and

"(4) shall reserve 0.2 percent of such amount for programs for Native Hawaiians under section 4118.

**"(b) STATE ALLOTMENTS.—**

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall, for each fiscal year, allocate among the States—

"(A) one-half of the remainder not reserved under subsection (a) according to the ratio between the school-aged population of each State and the school-aged population of all the States; and

"(B) one-half of such remainder according to the ratio between the amount each State received under part A of title I for the preceding year (or, for fiscal year 1995 only, sections 1005 and 1006 of this Act as such sections were in existence on the day preceding the date of enactment of the Improving America's Schools Act of 1994) and the sum of such amounts received by all the States.

"(2) MINIMUM.—For any fiscal year, no State shall be allotted under this subsection an amount that is less than one-half of 1 percent of the total amount allotted to all the States under this subsection.

"(3) REALLOTMENT.—The Secretary may reallocate any amount of any allotment to a State if the Secretary determines that the State will be unable to use such amount within two years of such allotment. Such reallocations shall be made on the same basis as allotments are made under paragraph (1).

"(4) DEFINITIONS.—For the purpose of this subsection—

"(A) the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and

"(B) the term 'local educational agency' includes educational service agencies and consortia of such agencies.

**"SEC. 4112. STATE APPLICATIONS.**

"(a) IN GENERAL.—In order to receive an allotment under section 4111 for any fiscal year, a State shall submit to the Secretary, at such time as the Secretary may require, an application that—

"(1) describes how funds under this subpart will be coordinated with programs under this Act, the Goals 2000: Educate America Act, and other Acts, as appropriate, in accordance with the provisions of section 14306;

"(2) contains the results of the State's needs assessment for drug and violence prevention programs, which shall be based on the results of on-going State evaluation activities, including data on the prevalence of drug use and violence by youth in schools and communities;

"(3) contains assurances that the sections of the application concerning the funds provided to the chief executive officer and the State educational agency were developed separately by such officer or agency, respectively, but in consultation and coordination with appropriate State officials and others, including the chief State school officer, the chief executive officer, the head of the State alcohol and drug abuse agency, the heads of the State health and mental health agencies, the head of the State criminal justice planning agency, the head of the State child welfare agency, the head of the State board of education, or their designees, and representatives of parents, students, and community-based organizations;

"(4) contains an assurance that the State will cooperate with, and assist, the Secretary in conducting a national impact evaluation of programs required by section 4117(a); and

"(5) includes any other information the Secretary may require.

"(b) STATE EDUCATIONAL AGENCY FUNDS.—A State's application under this section shall also

contain a comprehensive plan for the use of funds under section 4113(a) by the State educational agency that includes—

"(1) a statement of the State educational agency's measurable goals and objectives for drug and violence prevention and a description of the procedures such agency will use for assessing and publicly reporting progress toward meeting those goals and objectives;

"(2) a plan for monitoring the implementation of, and providing technical assistance regarding, the drug and violence prevention programs conducted by local educational agencies in accordance with section 4116;

"(3) a description of how the State educational agency will use funds under section 4113(b);

"(4) a description of how the State educational agency will coordinate such agency's activities under this subpart with the chief executive officer's drug and violence prevention programs under this subpart and with the prevention efforts of other State agencies;

"(5) an explanation of the criteria the State educational agency will use to identify which local educational agencies receive supplemental funds under section 4113(d)(2)(A)(ii) and how the supplemental funds will be allocated among such local educational agencies; and

"(6) a description of the procedures the State educational agency will use to review applications from local educational agencies under section 4115.

"(c) GOVERNOR'S FUNDS.—A State's application under this section shall also contain a comprehensive plan for the use of funds under section 4114(a) by the chief executive officer that includes—

"(1) a statement of the chief executive officer's measurable goals and objectives for drug and violence prevention and a description of the procedures to be used for assessing and publicly reporting progress toward meeting such goals and objectives;

"(2) a description of how the chief executive officer will coordinate such officer's activities under this part with the State educational agency and other State agencies and organizations involved with drug and violence prevention efforts;

"(3) a description of how funds reserved under section 4114(a) will be used so as not to duplicate the efforts of the State educational agency and local educational agencies with regard to the provision of school-based prevention efforts and services and how those funds will be used to serve populations not normally served by the State educational agency, such as school dropouts and youth in detention centers;

"(4) a description of how the chief executive officer will award funds under section 4114(a) and a plan for monitoring the performance of, and providing technical assistance to, recipients of such funds;

"(5) a description of the special outreach activities that will be carried out to maximize the participation of community-based organizations of demonstrated effectiveness which provide services in low-income communities; and

"(6) a description of how funds will be used to support community-wide comprehensive drug and violence prevention planning.

"(d) PEER REVIEW.—The Secretary shall use a peer review process in reviewing State applications under this section.

"(e) INTERIM APPLICATION.—Notwithstanding any other provisions of this section, a State may submit for fiscal year 1995 a one-year interim application and plan for the use of funds under this subpart that are consistent with the requirements of this section and contain such information as the Secretary may specify in regulations. The purpose of such interim application and plan shall be to afford the State the opportunity to fully develop and review such State's

application and comprehensive plan otherwise required by this section. A State may not receive a grant under this subpart for a fiscal year subsequent to fiscal year 1995 unless the Secretary has approved such State's application and comprehensive plan in accordance with this subpart.

**"SEC. 4113. STATE AND LOCAL EDUCATIONAL AGENCY PROGRAMS.**

**"(a) USE OF FUNDS.—**

**"(1) IN GENERAL.—**Except as provided in paragraph (2), an amount equal to 80 percent of the total amount allocated to a State under section 4111 for each fiscal year shall be used by the State educational agency and its local educational agencies for drug and violence prevention activities in accordance with this section.

**"(2) EXCEPTION.—(A)** If a State has, on or before January 1, 1994, established an independent State agency for the purpose of administering all of the funds described in section 5121 of this Act (as such section was in effect on the day preceding the date of the enactment of the Improving America's Schools Act of 1994), then—

**"(i)** an amount equal to 80 percent of the total amount allocated to such State under section 4111 for each fiscal year shall be used by the State educational agency and its local educational agencies for drug and violence prevention activities in accordance with this section; and

**"(ii)** an amount equal to 20 percent of such total amount shall be used by such independent State agency for drug and violence prevention activities in accordance with this section.

**"(B)** Not more than 5 percent of the amount reserved under subparagraph (A)(ii) may be used for administrative costs of the independent State agency incurred in carrying out the activities described in such subparagraph.

**"(C)** For purposes of this paragraph, the term 'independent State agency' means an independent agency with a board of directors or a cabinet level agency whose chief executive officer is appointed by the chief executive officer of the State and confirmed with the advice and consent of the senate of such State.

**"(b) STATE LEVEL PROGRAMS.—**

**"(1) IN GENERAL.—**A State educational agency shall use not more than 5 percent of the amount available under subsection (a) for activities such as—

**"(A)** training and technical assistance concerning drug and violence prevention for local educational agencies and educational service agencies, including teachers, administrators, coaches and athletic directors, other staff, parents, students, community leaders, health service providers, local law enforcement officials, and judicial officials;

**"(B)** the development, identification, dissemination, and evaluation of the most readily available, accurate, and up-to-date curriculum materials (including videotapes, software, and other technology-based learning resources), for consideration by local educational agencies;

**"(C)** making available to local educational agencies cost effective programs for youth violence and drug abuse prevention;

**"(D)** demonstration projects in drug and violence prevention;

**"(E)** training, technical assistance, and demonstration projects to address violence associated with prejudice and intolerance;

**"(F)** financial assistance to enhance resources available for drug and violence prevention in areas serving large numbers of economically disadvantaged children or sparsely populated areas, or to meet other special needs consistent with the purposes of this subpart; and

**"(G)** the evaluation of activities carried out within the State under this part.

**"(2) SPECIAL RULE.—**A State educational agency may carry out activities under this subsection directly, or through grants or contracts.

**"(c) STATE ADMINISTRATION.—**A State educational agency may use not more than 4 percent of the amount reserved under subsection (a) for the administrative costs of carrying out its responsibilities under this part.

**"(d) LOCAL EDUCATIONAL AGENCY PROGRAMS.—**

**"(1) IN GENERAL.—**A State educational agency shall distribute not less than 91 percent of the amount made available under subsection (a) for each fiscal year to local educational agencies in accordance with this subsection.

**"(2) DISTRIBUTION.—(A)** Of the amount distributed under paragraph (1), a State educational agency shall distribute—

**"(i)** 70 percent of such amount to local educational agencies, based on the relative enrollments in public and private nonprofit elementary and secondary schools within the boundaries of such agencies; and

**"(ii)** 30 percent of such amount to local educational agencies that the State educational agency determines have the greatest need for additional funds to carry out drug and violence prevention programs authorized by this subpart.

**"(B)** Where appropriate and to the extent consistent with the needs assessment conducted by the State, not less than 25 percent of the amount distributed under subparagraph (A)(ii) for a fiscal year shall be distributed to local educational agencies located in rural and urban areas.

**"(C)(i)** A State educational agency shall distribute funds under subparagraph (A)(ii) to not more than 10 percent of the local educational agencies in the State, or five such agencies, whichever is greater.

**"(ii)** In determining which local educational agencies have the greatest need for additional funds, the State educational agency shall consider objective data such as—

**"(I)** high rates of alcohol or drug use among youth;

**"(II)** high rates of victimization of youth by violence and crime;

**"(III)** high rates of arrests and convictions of youth for violent or drug- or alcohol-related crime;

**"(IV)** the extent of illegal gang activity;

**"(V)** high incidence of violence associated with prejudice and intolerance;

**"(VI)** high rates of referrals of youths to drug and alcohol abuse treatment and rehabilitation programs;

**"(VII)** high rates of referrals of youths to juvenile court;

**"(VIII)** high rates of expulsions and suspensions of students from schools; and

**"(IX)** high rates of reported cases of child abuse and domestic violence.

**"(e) REALLOCATION OF FUNDS.—**If a local educational agency chooses not to apply to receive the amount allocated to such agency under subsection (d), or if such agency's application under section 4115 is disapproved by the State educational agency, the State educational agency shall reallocate such amount to one or more of the local educational agencies determined by the State educational agency under subsection (d)(2)(C)(ii) to have the greatest need for additional funds.

**"(f) RETURN OF FUNDS TO STATE EDUCATIONAL AGENCY; REALLOCATION.—**

**"(1) RETURN.—**Except as provided in paragraph (2), upon the expiration of the 1-year period beginning on the date that a local educational agency or educational service agency under this title receives its allocation under this title—

**"(A)** such agency shall return to the State educational agency any funds from such allocation that remain unobligated; and

**"(B)** the State educational agency shall reallocate any such amount to local educational agencies or educational service agencies that

have plans for using such amount for programs or activities on a timely basis.

**"(2) REALLOCATION.—**In any fiscal year, a local educational agency, may retain for obligation in the succeeding fiscal year—

**"(A)** an amount equal to not more than 25 percent of the allocation it receives under this title for such fiscal year; or

**"(B)** upon a demonstration of good cause by such agency or consortium, a greater amount approved by the State educational agency.

**"SEC. 4114. GOVERNOR'S PROGRAMS.**

**"(a) USE OF FUNDS.—**

**"(1) IN GENERAL.—**An amount equal to 20 percent of the total amount allocated to a State under section 4111(1) for each fiscal year shall be used by the chief executive officer of such State for drug and violence prevention programs and activities in accordance with this section.

**"(2) LAW ENFORCEMENT EDUCATION PARTNERSHIPS.—**A chief executive officer shall use not less than 10 percent of the 20 percent of the total amount described in paragraph (1) for each fiscal year for law enforcement education partnerships in accordance with subsection (d).

**"(3) ADMINISTRATIVE COSTS.—**A chief executive officer may use not more than 5 percent of the 20 percent of the total amount described in paragraph (1) for the administrative costs incurred in carrying out the duties of such officer under this section.

**"(b) PROGRAMS AUTHORIZED.—**

**"(1) IN GENERAL.—**A chief executive officer shall use funds made available under subsection (a)(1) for grants to or contracts with parent groups, community action and job training agencies, community-based organizations, and other public entities and private nonprofit organizations and consortia thereof. In making such grants and contracts, a chief executive officer shall give priority to programs and activities described in subsection (c) for—

**"(A)** children and youth who are not normally served by State or local educational agencies; or

**"(B)** populations that need special services or additional resources (such as preschoolers, youth in juvenile detention facilities, runaway or homeless children and youth, pregnant and parenting teenagers, and school dropouts).

**"(2) PEER REVIEW.—**Grants or contracts awarded under this subsection shall be subject to a peer review process.

**"(c) AUTHORIZED ACTIVITIES.—**Grants and contracts under subsection (b) shall be used for programs and activities such as—

**"(1)** disseminating information about drug and violence prevention;

**"(2)** training parents, law enforcement officials, judicial officials, social service providers, health service providers and community leaders about drug and violence prevention, comprehensive health education, early intervention, pupil services, or rehabilitation referral;

**"(3)** developing and implementing comprehensive, community-based drug and violence prevention programs that link community resources with schools and integrate services involving education, vocational and job skills training and placement, law enforcement, health, mental health, community service, mentoring, and other appropriate services;

**"(4)** planning and implementing drug and violence prevention activities that coordinate the efforts of State agencies with efforts of the State educational agency and its local educational agencies;

**"(5)** activities to protect students traveling to and from school;

**"(6)** before-and-after school recreational, instructional, cultural, and artistic programs that encourage drug- and violence-free lifestyles;

**"(7)** activities that promote the awareness of and sensitivity to alternatives to violence

through courses of study that include related issues of intolerance and hatred in history;

"(8) developing and implementing activities to prevent and reduce violence associated with prejudice and intolerance;

"(9) developing and implementing strategies to prevent illegal gang activity;

"(10) coordinating and conducting community-wide violence and safety assessments and surveys;

"(11) service-learning projects that encourage drug- and violence-free lifestyles; and

"(12) evaluating programs and activities assisted under this section.

"(d) **LAW ENFORCEMENT EDUCATION PARTNERSHIPS.**—A chief executive officer shall use funds under subsection (a)(2) to award grants to State, county or local law enforcement agencies (including district attorneys) in consortium with local educational agencies or community-based agencies for the purposes of carrying out drug abuse and violence prevention activities, such as—

"(1) Project Drug Abuse Resistance Education and other programs which provide classroom instruction by uniformed law enforcement officials that is designed to teach students to recognize and resist pressures to experiment that influence such children to use controlled substances or alcohol;

"(2) Project Legal Lives and other programs in which district attorneys provide classroom instruction in the law and legal system which emphasizes interactive learning techniques, such as mock trial competitions;

"(3) partnerships between law enforcement and child guidance professionals; and

"(4) before- and after-school activities.

**"SEC. 4115. LOCAL APPLICATIONS.**

"(a) **APPLICATION REQUIRED.**—

"(1) **IN GENERAL.**—In order to be eligible to receive a distribution under section 4113(d) for any fiscal year, a local educational agency shall submit, at such time as the State educational agency requires, an application to the State educational agency for approval. Such an application shall be amended, as necessary, to reflect changes in the local educational agency's program.

"(2) **DEVELOPMENT.**—(A) A local educational agency shall develop its application under subsection (a)(1) in consultation with a local or substate regional advisory council that includes, to the extent possible, representatives of local government, business, parents, students, teachers, pupil services personnel, appropriate State agencies, private schools, the medical profession, law enforcement, community-based organizations, and other groups with interest and expertise in drug and violence prevention.

"(B) In addition to assisting the local educational agency to develop an application under this section, the advisory council established or designated under subparagraph (A) shall, on an ongoing basis—

"(i) disseminate information about drug and violence prevention programs, projects, and activities conducted within the boundaries of the local educational agency;

"(ii) advise the local educational agency regarding—

"(I) how best to coordinate such agency's activities under this subpart with other related programs, projects, and activities; and

"(II) the agencies that administer such programs, projects, and activities; and

"(iii) review program evaluations and other relevant material and make recommendations to the local educational agency on how to improve such agency's drug and violence prevention programs.

"(b) **CONTENTS OF APPLICATIONS.**—An application under this section shall contain—

"(1) an objective analysis of the current use (and consequences of such use) of alcohol, to-

bacco, and controlled, illegal, addictive or harmful substances as well as the violence, safety, and discipline problems among students who attend the schools of the applicant (including private school students who participate in the applicant's drug and violence prevention program) that is based on ongoing local assessment or evaluation activities;

"(2) a detailed explanation of the local educational agency's comprehensive plan for drug and violence prevention, which shall include a description of—

"(A) how the plan will be coordinated with programs under this Act, the Goals 2000: Educate America Act, and other Acts, as appropriate, in accordance with the provisions of section 14306;

"(B) the local educational agency's measurable goals for drug and violence prevention, and a description of how such agency will assess and publicly report progress toward attaining these goals;

"(C) how the local educational agency will use its distribution under this subpart;

"(D) how the local educational agency will coordinate such agency's programs and projects with community-wide efforts to achieve such agency's goals for drug and violence prevention; and

"(E) how the local educational agency will coordinate such agency's programs and projects with other Federal, State, and local programs for drug-abuse prevention, including health programs; and

"(3) such other information and assurances as the State educational agency may reasonably require.

"(c) **REVIEW OF APPLICATION.**—

"(1) **IN GENERAL.**—In reviewing local applications under this section, a State educational agency shall use a peer review process or other methods of assuring the quality of such applications.

"(2) **CONSIDERATIONS.**—(A) In determining whether to approve the application of a local educational agency under this section, a State educational agency shall consider the quality of the local educational agency's comprehensive plan under subsection (b)(2) and the extent to which such plan is coordinated with programs under this Act, the Goals 2000: Educate America Act, in accordance with the provisions of section 14306.

"(B) A State educational agency may disapprove a local educational agency application under this section in whole or in part and may withhold, limit, or place restrictions on the use of funds allotted to such a local educational agency in a manner the State educational agency determines will best promote the purposes of this part, except that a local educational agency shall be afforded an opportunity to appeal any such disapproval.

**"SEC. 4116. LOCAL DRUG AND VIOLENCE PREVENTION PROGRAMS.**

"(a) **PROGRAM REQUIREMENTS.**—A local educational agency shall use funds received under this subpart to adopt and carry out a comprehensive drug and violence prevention program which shall—

"(1) be designed, for all students and employees, to—

"(A) prevent the use, possession, and distribution of tobacco, alcohol, and illegal drugs by students and to prevent the illegal use, possession, and distribution of such substances by employees;

"(B) prevent violence and promote school safety; and

"(C) create a disciplined environment conducive to learning; and

"(2) include activities to promote the involvement of parents and coordination with community groups and agencies, including the dis-

tribution of information about the local educational agency's needs, goals, and programs under this subpart.

"(b) **AUTHORIZED ACTIVITIES.**—A comprehensive drug and violence prevention program carried out under this subpart may include—

"(1) age-appropriate, developmentally based drug prevention and education programs for all students, from the preschool level through grade 12, that address the legal, social, personal and health consequences of the use of illegal drugs, promote a sense of individual responsibility, and provide information about effective techniques for resisting peer pressure to use illegal drugs;

"(2) programs of drug prevention, comprehensive health education, early intervention, pupil services, mentoring, or rehabilitation referral, which emphasize students' sense of individual responsibility and which may include—

"(A) the dissemination of information about drug prevention;

"(B) the professional development of school personnel, parents, students, law enforcement officials, judicial officials, health service providers and community leaders in prevention, education, early intervention, pupil services or rehabilitation referral; and

"(C) the implementation of strategies, including strategies to integrate the delivery of services from a variety of providers, to combat illegal alcohol, tobacco and drug use, such as—

"(i) family counseling;

"(ii) early intervention activities that prevent family dysfunction, enhance school performance, and boost attachment to school and family; and

"(iii) activities, such as community service and service-learning projects, that are designed to increase students' sense of community;

"(3) age-appropriate, developmentally based violence prevention and education programs for all students, from the preschool level through grade 12, that address the legal, health, personal, and social consequences of violent and disruptive behavior, including sexual harassment and abuse, and victimization associated with prejudice and intolerance, and that include activities designed to help students develop a sense of individual responsibility and respect for the rights of others, and to resolve conflicts without violence;

"(4) violence prevention programs for school-aged youth, which emphasize students' sense of individual responsibility and may include—

"(A) the dissemination of information about school safety and discipline;

"(B) the professional development of school personnel, parents, students, law enforcement officials, judicial officials, and community leaders in designing and implementing strategies to prevent school violence;

"(C) the implementation of strategies, such as conflict resolution and peer mediation, student outreach efforts against violence, anti-crime youth councils (which work with school and community-based organizations to discuss and develop crime prevention strategies), and the use of mentoring programs, to combat school violence and other forms of disruptive behavior, such as sexual harassment and abuse; and

"(D) the development and implementation of character education programs, as a component of a comprehensive drug or violence prevention program, that are tailored by communities, parents and schools; and

"(E) comprehensive, community-wide strategies to prevent or reduce illegal gang activities;

"(5) supporting 'safe zones of passage' for students between home and school through such measures as Drug- and Weapon-Free School Zones, enhanced law enforcement, and neighborhood patrols;

"(6) acquiring and installing metal detectors and hiring security personnel;

"(7) professional development for teachers and other staff and curricula that promote the awareness of and sensitivity to alternatives to violence through courses of study that include related issues of intolerance and hatred in history;

"(8) the promotion of before-and-after school recreational, instructional, cultural, and artistic programs in supervised community settings;

"(9) drug abuse resistance education programs, designed to teach students to recognize and resist pressures to use alcohol or other drugs, which may include activities such as classroom instruction by uniformed law enforcement officers, resistance techniques, resistance to peer pressure and gang pressure, and provision for parental involvement; and

"(10) the evaluation of any of the activities authorized under this subsection.

"(c) LIMITATIONS.—

"(1) IN GENERAL.—Not more than 20 percent of the funds made available to a local educational agency under this subpart may be used to carry out the activities described in paragraphs (5) and (6) of subsection (b).

"(2) SPECIAL RULE.—A local educational agency shall only be able to use funds received under this subpart for activities described in paragraphs (5) and (6) of subsection (b) if funding for such activities is not received from other Federal agencies.

"(d) ADMINISTRATIVE PROVISIONS.—Notwithstanding any other provisions of law, any funds expended prior to July 1, 1995, under part B of the Drug-Free Schools and Communities Act of 1986 (as in effect prior to enactment of the Improving America's Schools Act) for the support of a comprehensive school health program shall be deemed to have been authorized by part B of such Act.

#### "SEC. 4117. EVALUATION AND REPORTING.

"(a) NATIONAL IMPACT EVALUATION.—

"(1) BIENNIAL EVALUATION.—The Secretary, in consultation with the Secretary of Health and Human Services, the Director of the Office of National Drug Control Policy, and the Attorney General, shall conduct an independent biennial evaluation of the national impact of programs assisted under this subpart and of other recent and new initiatives to combat violence in schools and submit a report of the findings of such evaluation to the President and the Congress.

"(2) DATA COLLECTION.—(A) The National Center for Education Statistics shall collect data to determine the frequency, seriousness, and incidence of violence in elementary and secondary schools in the States. The Secretary shall collect the data using, wherever appropriate, data submitted by the States pursuant to subsection (b)(2)(B).

"(B) Not later than January 1, 1998, the Secretary shall submit to the Congress a report on the data collected under this subsection, together with such recommendations as the Secretary determines appropriate, including estimated costs for implementing any recommendation.

"(b) STATE REPORT.—

"(1) IN GENERAL.—By October 1, 1997, and every third year thereafter, the chief executive officer of the State, in cooperation with the State educational agency, shall submit to the Secretary a report—

"(A) on the implementation and outcomes of State programs under section 4114 and section 4113(b) and local educational agency programs under section 4113(d), as well as an assessment of their effectiveness; and

"(B) on the State's progress toward attaining its goals for drug and violence prevention under subsections (b)(1) and (c)(1) of section 4112.

"(2) SPECIAL RULE.—The report required by this subsection shall be—

"(A) in the form specified by the Secretary;

"(B) based on the State's ongoing evaluation activities, and shall include data on the prevalence of drug use and violence by youth in schools and communities; and

"(C) made readily available to the public.

"(c) LOCAL EDUCATIONAL AGENCY REPORT.—Each local educational agency receiving funds under this subpart shall submit to the State educational agency such information, and at such intervals, that the State requires to complete the State report required by subsection (b), including information on the prevalence of drug use and violence by youth in the schools and the community. Such information shall be made readily available to the public.

#### "SEC. 4118. PROGRAMS FOR NATIVE HAWAIIANS.

"(a) GENERAL AUTHORITY.—From the funds made available pursuant to section 4111(a)(4) to carry out this section, the Secretary shall make grants to or enter into cooperative agreements or contracts with organizations primarily serving and representing Native Hawaiians which are recognized by the Governor of the State of Hawaii to plan, conduct, and administer programs, or portions thereof, which are authorized by and consistent with the provisions of this title for the benefit of Native Hawaiians.

"(b) DEFINITION OF NATIVE HAWAIIAN.—For the purposes of this section, the term 'Native Hawaiian' means any individual any of whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

#### "Subpart 2—National Programs

#### "SEC. 4121. FEDERAL ACTIVITIES.

"(a) PROGRAM AUTHORIZED.—From funds made available to carry out this subpart under section 4004(2), the Secretary, in consultation with the Secretary of Health and Human Services, the Director of the Office of National Drug Control Policy, the Chair of the Ounce of Prevention Council, and the Attorney General, shall carry out programs to prevent the illegal use of drugs and violence among, and promote safety and discipline for, students at all educational levels from preschool through the post-secondary level. The Secretary shall carry out such programs directly, or through grants, contracts, or cooperative agreements with public and private nonprofit organizations and individuals, or through agreements with other Federal agencies, and shall coordinate such programs with other appropriate Federal activities. Such programs may include—

"(1) the development and demonstration of innovative strategies for training school personnel, parents, and members of the community, including the demonstration of model preservice training programs for prospective school personnel;

"(2) demonstrations and rigorous evaluations of innovative approaches to drug and violence prevention;

"(3) the provision of information on drug abuse education and prevention to the Secretary of Health and Human Services for dissemination by the clearinghouse for alcohol and drug abuse information established under section 501(d)(16) of the Public Health Service Act;

"(4) the development of curricula related to child abuse prevention and education and the training of personnel to teach child abuse education and prevention to elementary and secondary school children;

"(5) program evaluations in accordance with section 14701 that address issues not addressed under section 4117(a);

"(6) direct services to schools and school systems afflicted with especially severe drug and violence problems;

"(7) activities in communities designated as empowerment zones or enterprise communities that will connect schools to community-wide efforts to reduce drug and violence problems;

"(8) developing and disseminating drug and violence prevention materials, including video-based projects and model curricula;

"(9) developing and implementing a comprehensive violence prevention strategy for schools and communities, that may include conflict resolution, peer mediation, the teaching of law and legal concepts, and other activities designed to stop violence;

"(10) the implementation of innovative activities, such as community service projects, designed to rebuild safe and healthy neighborhoods and increase students' sense of individual responsibility;

"(11) grants to noncommercial telecommunications entities for the production and distribution of national video-based projects that provide young people with models for conflict resolution and responsible decisionmaking;

"(12) the development of education and training programs, curricula, instructional materials, and professional training and development for preventing and reducing the incidence of crimes and conflicts motivated by hate in localities most directly affected by hate crimes; and

"(13) other activities that meet unmet national needs related to the purposes of this title.

"(b) PEER REVIEW.—The Secretary shall use a peer review process in reviewing applications for funds under this section.

#### "SEC. 4122. GRANTS TO INSTITUTIONS OF HIGHER EDUCATION.

"(a) IN GENERAL.—From funds made available to carry out this subpart under section 4004(2), the Secretary is authorized to make grants to, or enter into contracts with, institutions of higher education, or consortia of such institutions, for drug and violence prevention programs under this section. Awards under this section shall support the development, implementation, validation, and dissemination of—

"(1) model programs and strategies to promote the safety of students attending institutions of higher education by preventing violent behavior and the illegal use of alcohol and other drugs by such students; and

"(2) such model programs and strategies shall be coordinated with the report required under section 204(a)(4)(B) of the Student Right-to-Know and Campus Security Act on policies, procedures and practices which have proven effective in the reduction of campus crime.

"(b) APPLICATIONS.—An institution of higher education, or consortium of such institutions, that desires to receive an award under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require. The Secretary shall use a peer review process for reviewing applications for funds under this section.

"(c) EQUITABLE PARTICIPATION.—The Secretary shall make every reasonable effort to ensure the equitable participation in the activities assisted under this section of private and public institutions of higher education (including community and junior colleges), institutions of limited enrollment, and institutions in different geographic regions.

#### "SEC. 4123. HATE CRIME PREVENTION.

"(a) GRANT AUTHORIZATION.—From funds made available to carry out this subpart under section 4004(1) the Secretary may make grants to local educational agencies and community-based organizations for the purpose of providing assistance to localities most directly affected by hate crimes.

"(b) USE OF FUNDS.—

"(1) PROGRAM DEVELOPMENT.—Grants under this section may be used to improve elementary and secondary educational efforts, including—

"(A) development of education and training programs designed to prevent and to reduce the incidence of crimes and conflicts motivated by hate;

"(B) development of curricula for the purpose of improving conflict or dispute resolution skills of students, teachers, and administrators;

"(C) development and acquisition of equipment and instructional materials to meet the needs of, or otherwise be part of, hate crime or conflict programs; and

"(D) professional training and development for teachers and administrators on the causes, effects, and resolutions of hate crimes or hate-based conflicts.

"(2) **IN GENERAL.**—In order to be eligible to receive a grant under this section for any fiscal year, a local educational agency, or a local educational agency in conjunction with a community-based organization, shall submit an application to the Secretary in such form and containing such information as the office may reasonably require.

"(3) **REQUIREMENTS.**—Each application under paragraph (2) shall include—

"(A) a request for funds for the purposes described in this section;

"(B) a description of the schools and communities to be served by the grants; and

"(C) assurances that Federal funds received under this section shall be used to supplement, not supplant, non-Federal funds.

"(4) **COMPREHENSIVE PLAN.**—Each application shall include a comprehensive plan that contains—

"(A) a description of the hate crime or conflict problems within the schools or the community targeted for assistance;

"(B) a description of the program to be developed or augmented by such Federal and matching funds;

"(C) assurances that such program or activity shall be administered by or under the supervision of the applicant;

"(D) proper and efficient administration of such program; and

"(E) fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this section.

"(c) **AWARD OF GRANTS.**—

"(1) **SELECTION OF RECIPIENTS.**—The Secretary shall consider the incidence of crimes and conflicts motivated by bias in the targeted schools and communities in awarding grants under this section.

"(2) **GEOGRAPHIC DISTRIBUTION.**—The Secretary shall attempt, to the extent practicable, to achieve an equitable geographic distribution of grant awards.

"(3) **DISSEMINATION OF INFORMATION.**—The Secretary shall attempt, to the extent practicable, to make available information regarding successful hate crime prevention programs, including programs established or expanded with grants under this section.

"(d) **REPORTS.**—The Secretary shall submit to the Congress a report every two years which shall contain a detailed statement regarding grants and awards, activities of grant recipients, and an evaluation of programs established under this section.

#### "Subpart 3—General Provisions

##### "SEC. 4131. DEFINITIONS.

"For the purposes of this part:

"(1) **COMMUNITY-BASED ORGANIZATION.**—The term 'community-based organization' means a private nonprofit organization which is representative of a community or significant segments of a community and which provides educational or related services to individuals in the community.

"(2) **DRUG AND VIOLENCE PREVENTION.**—The term 'drug and violence prevention' means—

"(A) with respect to drugs, prevention, early intervention, rehabilitation referral, or education related to the illegal use of alcohol and the use of controlled, illegal, addictive, or harm-

ful substances, including inhalants and anabolic steroids;

"(B) prevention, early intervention, smoking cessation activities, or education, related to the use of tobacco by children and youth eligible for services under this title; and

"(C) with respect to violence, the promotion of school safety, such that students and school personnel are free from violent and disruptive acts, including sexual harassment and abuse, and victimization associated with prejudice and intolerance, on school premises, going to and from school, and at school-sponsored activities, through the creation and maintenance of a school environment that is free of weapons and fosters individual responsibility and respect for the rights of others.

"(3) **HATE CRIME.**—The term 'hate crime' means a crime as described in section 1(b) of the Hate Crime Statistics Act of 1990.

"(4) **NONPROFIT.**—The term 'nonprofit', as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"(5) **SCHOOL-AGED POPULATION.**—The term 'school-aged population' means the population aged five through 17, as determined by the Secretary on the basis of the most recent satisfactory data available from the Department of Commerce.

"(6) **SCHOOL PERSONNEL.**—The term 'school personnel' includes teachers, administrators, guidance counselors, social workers, psychologists, nurses, librarians, and other support staff who are employed by a school or who perform services for the school on a contractual basis.

##### "SEC. 4132. MATERIALS.

"(a) **'WRONG AND HARMFUL' MESSAGE.**—Drug prevention programs supported under this part shall convey a clear and consistent message that the illegal use of alcohol and other drugs is wrong and harmful.

"(b) **CURRICULUM.**—The Secretary shall not prescribe the use of specific curricula for programs supported under this part, but may evaluate the effectiveness of such curricula and other strategies in drug and violence prevention.

##### "SEC. 4133. PROHIBITED USES OF FUNDS.

"No funds under this part may be used for—

"(1) construction (except for minor remodeling needed to accomplish the purposes of this part); and

"(2) medical services, drug treatment or rehabilitation, except for pupil services or referral to treatment for students who are victims of or witnesses to crime or who use alcohol, tobacco, or drugs."

#### "TITLE V—PROMOTING EQUITY

##### "PART A—MAGNET SCHOOLS ASSISTANCE

##### "SEC. 5101. FINDINGS.

"The Congress finds that—

"(1) magnet schools are a significant part of our Nation's effort to achieve voluntary desegregation in our Nation's schools;

"(2) the use of magnet schools has increased dramatically since the date of enactment of the Magnet Schools Assistance program, with approximately 1,400,000 students nationwide now attending such schools, of which more than 60 percent of the students are nonwhite;

"(3) magnet schools offer a wide range of distinctive programs that have served as models for school improvement efforts;

"(4) in administering the Magnet Schools Assistance program, the Federal Government has learned that—

"(A) where magnet programs are implemented for only a portion of a school's student body, special efforts must be made to discourage the isolation of—

"(i) magnet school students from other students in the school; and

"(ii) students by racial characteristics;

"(B) local educational agencies can maximize their effectiveness in achieving the purposes of the Magnet Schools Assistance program if such agencies have more flexibility in the administration of such program in order to serve students attending a school who are not enrolled in the magnet school program;

"(C) local educational agencies must be creative in designing magnet schools for students at all academic levels, so that school districts do not skim off only the highest achieving students to attend the magnet schools;

"(D) consistent with desegregation guidelines, local educational agencies must seek to enable participation in magnet school programs by students who reside in the neighborhoods where the programs operate; and

"(E) in order to ensure that magnet schools are sustained after Federal funding ends, the Federal Government must assist school districts to improve their capacity to continue to operate magnet schools at a high level of performance; and

"(5) it is in the best interest of the Federal Government to—

"(A) continue the Federal Government's support of school districts implementing court-ordered desegregation plans and school districts seeking to foster meaningful interaction among students of different racial and ethnic backgrounds, beginning at the earliest stage of such students' education;

"(B) ensure that all students have equitable access to quality education that will prepare such students to function well in a culturally diverse, technologically oriented, and highly competitive, global community; and

"(C) maximize the ability of local educational agencies to plan, develop, implement and continue effective and innovative magnet schools that contribute to State and local systemic reform.

##### "SEC. 5102. STATEMENT OF PURPOSE.

"The purpose of this part is to assist in the desegregation of schools served by local educational agencies by providing financial assistance to eligible local educational agencies for—

"(1) the elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial proportions of minority students;

"(2) the development and implementation of magnet school projects that will assist local educational agencies in achieving systemic reforms and providing all students the opportunity to meet challenging State content standards and challenging State student performance standards;

"(3) the development and design of innovative educational methods and practices; and

"(4) courses of instruction within magnet schools that will substantially strengthen the knowledge of academic subjects and the grasp of tangible and marketable vocational skills of students attending such schools.

##### "SEC. 5103. PROGRAM AUTHORIZED.

"The Secretary, in accordance with this part, is authorized to make grants to eligible local educational agencies, and consortia of such agencies where appropriate, to carry out the purpose of this part for magnet schools that are—

"(1) part of an approved desegregation plan; and

"(2) designed to bring students from different social, economic, ethnic, and racial backgrounds together.

##### "SEC. 5104. DEFINITION.

"For the purpose of this part, the term 'magnet school' means a public elementary or secondary school or public elementary or secondary

education center that offers a special curriculum capable of attracting substantial numbers of students of different racial backgrounds.

**"SEC. 5105. ELIGIBILITY.**

"A local educational agency, or consortium of such agencies where appropriate, is eligible to receive assistance under this part to carry out the purposes of this part if such agency or consortium—

"(1) is implementing a plan undertaken pursuant to a final order issued by a court of the United States, or a court of any State, or any other State agency or official of competent jurisdiction, that requires the desegregation of minority-group-segregated children or faculty in the elementary and secondary schools of such agency; or

"(2) without having been required to do so, has adopted and is implementing, or will, if assistance is made available to such local educational agency or consortium of such agencies under this part, adopt and implement a plan that has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 for the desegregation of minority-group-segregated children or faculty in such schools.

**"SEC. 5106. APPLICATIONS AND REQUIREMENTS.**

"(a) **APPLICATIONS.**—An eligible local educational agency or consortium of such agencies desiring to receive assistance under this part shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may reasonably require.

"(b) **INFORMATION AND ASSURANCES.**—Each such application shall include—

"(1) a description of—

"(A) how assistance made available under this part will be used to promote desegregation, including how the proposed magnet school project will increase interaction among students of different social, economic, ethnic, and racial backgrounds;

"(B) the manner and extent to which the magnet school project will increase student achievement in the instructional area or areas offered by the school;

"(C) how an applicant will continue the magnet school project after assistance under this part is no longer be available, including, if applicable, an explanation of why magnet schools established or supported by the applicant with funds under this part cannot be continued without the use of funds under this part;

"(D) how funds under this part will be used to implement services and activities that are consistent with other programs under this Act, the Goals 2000: Educate America Act, and other Acts, as appropriate, in accordance with the provisions of section 14306; and

"(E) the criteria to be used in selecting students to attend the proposed magnet school projects; and

"(2) assurances that the applicant will—

"(A) use funds under this part for the purposes specified in section 5102;

"(B) employ State certified or licensed teachers in the courses of instruction assisted under this part to teach or supervise others who are teaching the subject matter of the courses of instruction;

"(C) not engage in discrimination based on race, religion, color, national origin, sex, or disability in—

"(i) the hiring, promotion, or assignment of employees of the agency or other personnel for whom the agency has any administrative responsibility;

"(ii) the assignment of students to schools, or to courses of instruction within the school, of such agency, except to carry out the approved plan; and

"(iii) designing or operating extracurricular activities for students;

"(D) carry out a high-quality education program that will encourage greater parental decisionmaking and involvement; and

"(E) give students residing in the local attendance area of the proposed magnet school projects equitable consideration for placement in those projects.

"(c) **SPECIAL RULE.**—No application may be approved under this section unless the Assistant Secretary of Education for Civil Rights determines that the assurances described in subsection (b)(2)(C) will be met.

**"SEC. 5107. PRIORITY.**

"In approving applications under this part, the Secretary shall give priority to applicants that—

"(1) demonstrate the greatest need for assistance, based on the expense or difficulty of effectively carrying out an approved desegregation plan and the projects for which assistance is sought;

"(2) propose to carry out new magnet school projects, or significantly revise existing magnet school projects;

"(3) propose to select students to attend magnet school projects by methods such as lottery, rather than through academic examination;

"(4) propose to implement innovative educational approaches that are consistent with the State's and local educational agency's approved systemic reform plans, if any, under title III of the Goals 2000: Educate America Act; and

"(5) propose to draw on comprehensive community involvement plans.

**"SEC. 5108. USE OF FUNDS.**

"(a) **IN GENERAL.**—Grant funds made available under this part may be used by an eligible local educational agency or consortium of such agencies—

"(1) for planning and promotional activities directly related to the development, expansion, continuation, or enhancement of academic programs and services offered at magnet schools;

"(2) for the acquisition of books, materials, and equipment, including computers and the maintenance and operation thereof, necessary for the conduct of programs in magnet schools;

"(3) for the payment, or subsidization of the compensation, of elementary and secondary school teachers who are certified or licensed by the State, and instructional staff where applicable, who are necessary for the conduct of programs in magnet schools; and

"(4) with respect to a magnet school program offered to less than the entire student population of a school, for instructional activities that—

"(A) are designed to make available the special curriculum that is offered by the magnet school project to students who are enrolled in the school but who are not enrolled in the magnet school program; and

"(B) further the purposes of this part.

"(b) **SPECIAL RULE.**—Grant funds under this part may be used in accordance with paragraphs (2) and (3) of subsection (a) only if the activities described in such paragraphs are directly related to improving the students' reading skills or knowledge of mathematics, science, history, geography, English, foreign languages, art, or music, or to improving vocational skills.

**"SEC. 5109. PROHIBITIONS.**

"(a) **TRANSPORTATION.**—Grants under this part may not be used for transportation or any activity that does not augment academic improvement.

"(b) **PLANNING.**—A local educational agency shall not expend funds under this part after the third year that such agency receives funds under this part for such project.

**"SEC. 5110. LIMITATIONS.**

"(a) **DURATION OF AWARDS.**—A grant under this part shall be awarded for a period that shall not exceed three fiscal years.

"(b) **LIMITATION ON PLANNING FUNDS.**—A local educational agency may expend for planning not more than 50 percent of the funds received under this part for the first year of the project, 15 percent of such funds for the second such year, and 10 percent of such funds for the third such year.

"(c) **AMOUNT.**—No local educational agency or consortium awarded a grant under this part shall receive more than \$4,000,000 under this part in any one fiscal year.

"(d) **TIMING.**—To the extent practicable, the Secretary shall award grants for any fiscal year under this part not later than June 1 of the applicable fiscal year.

**"SEC. 5111. INNOVATIVE PROGRAMS.**

"(a) **IN GENERAL.**—From amounts reserved under subsection (d) for each fiscal year, the Secretary shall award grants to local educational agencies or consortia of such agencies described in section 5105 to enable such agencies or consortia to conduct innovative programs that—

"(1) carry out the purpose of this part; and

"(2) involve strategies other than magnet schools, such as neighborhood or community model schools—

"(A) organized around a special emphasis, theme or concept; and

"(B) involving extensive parent and community involvement.

"(b) **APPLICABILITY.**—Sections 5103, 5106, 5107, and 5108, shall not apply to grants awarded under subsection (a).

"(c) **APPLICATIONS.**—Each local educational agency or consortia of such agencies desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may reasonably require.

"(d) **INNOVATIVE PROGRAMS.**—The Secretary shall reserve not more than 5 percent of the funds appropriated under section 5113(a) for each fiscal year to award grants under this section.

**"SEC. 5112. EVALUATIONS.**

"(a) **RESERVATION.**—The Secretary may reserve not more than two percent of the funds appropriated under section 5113(a) for any fiscal year to carry out evaluations of projects assisted under this part.

"(b) **CONTENTS.**—Each evaluation described in subsection (a), at a minimum, shall address—

"(1) how and the extent to which magnet school programs lead to educational quality and improvement;

"(2) the extent to which magnet school programs enhance student access to quality education;

"(3) the extent to which magnet school programs lead to the elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial proportions of minority students; and

"(4) the extent to which magnet school programs differ from other school programs in terms of the organizational characteristics and resource allocations of such magnet school programs.

**"SEC. 5113. AUTHORIZATION OF APPROPRIATIONS; RESERVATION.**

"(a) **AUTHORIZATION.**—For the purpose of carrying out this part, there are authorized to be appropriated \$120,000,000 for fiscal year 1995 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(b) **AVAILABILITY OF FUNDS FOR GRANTS TO AGENCIES NOT PREVIOUSLY ASSISTED.**—In any fiscal year for which the amount appropriated pursuant to subsection (a) exceeds \$75,000,000, the Secretary shall give priority to using such amounts in excess of \$75,000,000 to award grants to local educational agencies or consortia of

such agencies that did not receive a grant under this part in the preceding fiscal year.

**"PART B—WOMEN'S EDUCATIONAL EQUITY"**  
**"SEC. 5201. SHORT TITLE; FINDINGS.**

"(a) **SHORT TITLE.**—This part may be cited as the 'Women's Educational Equity Act of 1994'.

"(b) **FINDINGS.**—The Congress finds that—

"(1) since the enactment of title IX of the Education Amendments of 1972, women and girls have made strides in educational achievement and in their ability to avail themselves of educational opportunities;

"(2) because of funding provided under the Women's Educational Equity Act, more curricula, training, and other educational materials concerning educational equity for women and girls are available for national dissemination;

"(3) teaching and learning practices in the United States are frequently inequitable as such practices relate to women and girls, for example—

"(A) sexual harassment, particularly that experienced by girls, undermines the ability of schools to provide a safe and equitable learning or workplace environment;

"(B) classroom textbooks and other educational materials do not sufficiently reflect the experiences, achievements, or concerns of women and, in most cases, are not written by women or persons of color;

"(C) girls do not take as many mathematics and science courses as boys, girls lose confidence in their mathematics and science ability as girls move through adolescence, and there are few women role models in the sciences; and

"(D) pregnant and parenting teenagers are at high risk for dropping out of school and existing dropout prevention programs do not adequately address the needs of such teenagers;

"(4) efforts to improve the quality of public education also must include efforts to ensure equal access to quality education programs for all women and girls;

"(5) Federal support should address not only research and development of innovative model curricula and teaching and learning strategies to promote gender equity, but should also assist schools and local communities implement gender equitable practices;

"(6) Federal assistance for gender equity must be tied to systemic reform, involve collaborative efforts to implement effective gender practices at the local level, and encourage parental participation; and

"(7) excellence in education, high educational achievements and standards, and the full participation of women and girls in American society, cannot be achieved without educational equity for women and girls.

**"SEC. 5202. STATEMENT OF PURPOSES.**

"It is the purpose of this part—

"(1) to promote gender equity in education in the United States;

"(2) to provide financial assistance to enable educational agencies and institutions to meet the requirements of title IX of the Educational Amendments of 1972; and

"(3) to promote equity in education for women and girls who suffer from multiple forms of discrimination based on sex, race, ethnic origin, limited-English proficiency, disability, or age.

**"SEC. 5203. PROGRAMS AUTHORIZED.**

"(a) **IN GENERAL.**—The Secretary is authorized—

"(1) to promote, coordinate, and evaluate gender equity policies, programs, activities and initiatives in all Federal education programs and offices;

"(2) to develop, maintain, and disseminate materials, resources, analyses, and research relating to education equity for women and girls;

"(3) to provide information and technical assistance to assure the effective implementation of gender equity programs;

"(4) to coordinate gender equity programs and activities with other Federal agencies with jurisdiction over education and related programs;

"(5) to assist the Assistant Secretary of the Office of Educational Research and Improvement in identifying research priorities related to education equity for women and girls; and

"(6) to perform any other activities consistent with achieving the purposes of this part.

"(b) **GRANTS AUTHORIZED.**—

"(1) **IN GENERAL.**—The Secretary is authorized to make grants to, and enter into contracts and cooperative agreements with, public agencies, private nonprofit agencies, organizations, institutions, student groups, community groups, and individuals, for a period not to exceed four years, to—

"(A) provide grants to develop model equity programs; and

"(B) provide funds for the implementation of equity programs in schools throughout the Nation.

"(2) **SUPPORT AND TECHNICAL ASSISTANCE.**—To achieve the purposes of this part, the Secretary is authorized to provide support and technical assistance—

"(A) to implement effective gender-equity policies and programs at all educational levels, including—

"(i) assisting educational agencies and institutions to implement policies and practices to comply with title IX of the Education Amendments of 1972;

"(ii) training for teachers, counselors, administrators, and other school personnel, especially preschool and elementary school personnel, in gender equitable teaching and learning practices;

"(iii) leadership training for women and girls to develop professional and marketable skills to compete in the global marketplace, improve self-esteem, and benefit from exposure to positive role models;

"(iv) school-to-work transition programs, guidance and counseling activities, and other programs to increase opportunities for women and girls to enter a technologically demanding workplace and, in particular, to enter highly skilled, high paying careers in which women and girls have been underrepresented;

"(v) enhancing educational and career opportunities for those women and girls who suffer multiple forms of discrimination, based on sex and on race, ethnic origin, limited-English proficiency, disability, socioeconomic status, or age;

"(vi) assisting pregnant students and students rearing children to remain in or to return to secondary school, graduate, and prepare their preschool children to start school;

"(vii) evaluating exemplary model programs to assess the ability of such programs to advance educational equity for women and girls;

"(viii) introduction into the classroom of textbooks, curricula, and other materials designed to achieve equity for women and girls;

"(ix) programs and policies to address sexual harassment and violence against women and girls and to ensure that educational institutions are free from threats to the safety of students and personnel;

"(x) nondiscriminatory tests of aptitude and achievement and of alternative assessments that eliminate biased assessment instruments from use;

"(xi) programs to increase educational opportunities, including higher education, vocational training, and other educational programs for low-income women, including underemployed and unemployed women, and women receiving Aid to Families with Dependent Children benefits;

"(xii) programs to improve representation of women in educational administration at all levels; and

"(xiii) planning, development and initial implementation of—

"(I) comprehensive institution- or districtwide evaluation to assess the presence or absence of gender equity in educational settings;

"(II) comprehensive plans for implementation of equity programs in State and local educational agencies and institutions of higher education; including community colleges; and

"(III) innovative approaches to school-community partnerships for educational equity.

"(B) for research and development, which shall be coordinated with each of the research institutes of the Office of Educational Research and Improvement to avoid duplication of research efforts, designed to advance gender equity nationwide and to help make policies and practices in educational agencies and institutions, and local communities, gender equitable, including—

"(i) research and development of innovative strategies and model training programs for teachers and other education personnel;

"(ii) the development of high quality and challenging assessment instruments that are nondiscriminatory;

"(iii) the development and evaluation of model curricula, textbooks, software, and other educational materials to ensure the absence of gender stereotyping and bias;

"(iv) the development of instruments and procedures that employ new and innovative strategies to assess whether diverse educational settings are gender equitable;

"(v) the development of instruments and strategies for evaluation, dissemination, and replication of promising or exemplary programs designed to assist local educational agencies in integrating gender equity in their educational policies and practices;

"(vi) updating high quality educational materials previously developed through awards made under this part;

"(vii) the development of policies and programs to address and prevent sexual harassment and violence to ensure that educational institutions are free from threats to safety of students and personnel;

"(viii) the development and improvement of programs and activities to increase opportunity for women, including continuing educational activities, vocational education, and programs for low-income women, including underemployed and unemployed women, and women receiving Aid to Families with Dependent Children; and

"(ix) the development of guidance and counseling activities, including career education programs, designed to ensure gender equity.

**"SEC. 5204. APPLICATIONS.**

"An application under this part shall—

"(1) set forth policies and procedures that will ensure a comprehensive evaluation of the activities assisted under this part, including an evaluation of the practices, policies, and materials used by the applicant and an evaluation or estimate of the continued significance of the work of the project following completion of the award period;

"(2) where appropriate, demonstrate how funds received under this part will be used to promote the attainment of one or more of the National Education Goals;

"(3) demonstrate how the applicant will address perceptions of gender roles based on cultural differences or stereotypes;

"(4) where appropriate, describe how funds under this part will be used in a manner that is consistent with programs under the School-to-Work Opportunities Act of 1994;

"(5) for applications for assistance under section 5203(b)(1), demonstrate how the applicant will foster partnerships and, where applicable, share resources with State educational agencies,

local educational agencies, institutions of higher education, community-based organizations (including organizations serving women), parent, teacher, and student groups, businesses or other recipients of Federal educational funding which may include State literacy resource centers;

"(6) for applications for assistance under section 5203(b)(1), demonstrate how parental involvement in the project will be encouraged; and

"(7) for applications for assistance under section 5203(b)(1), describe plans for continuation of the activities assisted under this part with local support following completion of the grant period and termination of Federal support under this part.

**"SEC. 5205. CRITERIA AND PRIORITIES.**

"(a) CRITERIA AND PRIORITIES.—

"(1) IN GENERAL.—The Secretary shall establish separate criteria and priorities for awards under paragraphs (1) and (2) of section 5203(b) to ensure that funds under this part are used for programs that most effectively will achieve the purposes of this part.

"(2) CRITERIA.—The criteria described in subsection (a) may include the extent to which the activities assisted under this part—

"(A) address the needs of women and girls of color and women and girls with disabilities;

"(B) meet locally defined and documented educational equity needs and priorities, including compliance with title IX of the Education Amendments of 1972;

"(C) are a significant component of a comprehensive plan for educational equity and compliance with title IX of the Education Amendments of 1972 in the particular school district, institution of higher education, vocational-technical institution, or other educational agency or institution; and

"(D) implement an institutional change strategy with long-term impact that will continue as a central activity of the applicant after the grant under this part has terminated.

"(b) PRIORITIES.—In approving applications under this part, the Secretary may give special consideration to applications—

"(1) submitted by applicants that have not received assistance under this part or under part C of title IX of this Act (as such part was in effect on October 1, 1988);

"(2) for projects that will contribute significantly to directly improving teaching and learning practices in the local community; and

"(3) for projects that will—

"(A) provide for a comprehensive approach to enhancing gender equity in educational institutions and agencies;

"(B) draw on a variety of resources, including the resources of local educational agencies, community-based organizations, institutions of higher education, and private organizations;

"(C) implement a strategy with long-term impact that will continue as a central activity of the applicant after the grant under this part has terminated;

"(D) address issues of national significance that can be duplicated; and

"(E) address the educational needs of women and girls who suffer multiple or compound discrimination based on sex and on race, ethnic origin, disability, or age.

"(c) SPECIAL RULE.—To the extent feasible, the Secretary shall ensure that grants awarded under this part for each fiscal year address—

"(1) all levels of education, including preschool, elementary and secondary education, higher education, vocational education, and adult education;

"(2) all regions of the United States; and

"(3) urban, rural, and suburban educational institutions.

"(d) COORDINATION.—Research activities supported under this part—

"(1) shall be carried out in consultation with the Office of Educational Research and Improvement to ensure that such activities are coordinated with and enhance the research and development activities supported by the Office; and

"(2) may include collaborative research activities which are jointly funded and carried out with the Office of Educational Research and Improvement.

"(e) LIMITATION.—Nothing in this part shall be construed as prohibiting men and boys from participating in any programs or activities assisted with funds under this part.

**"SEC. 5206. REPORT.**

"The Secretary, not later than January 1, 1999, shall submit to the President and the Congress a report on the status of educational equity for girls and women in the Nation.

**"SEC. 5207. ADMINISTRATION.**

"(a) EVALUATION AND DISSEMINATION.—The Secretary shall evaluate in accordance with section 14701, and disseminate, materials and programs developed under this part and shall report to the Congress regarding such evaluation materials and programs not later than January 1, 1998.

"(b) PROGRAM OPERATIONS.—The Secretary shall ensure that the activities assisted under this part are administered within the Department by a person who has recognized professional qualifications and experience in the field of gender equity education.

**"SEC. 5208. AUTHORIZATION OF APPROPRIATIONS.**

"For the purpose of carrying out this part, there are authorized to be appropriated \$5,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years, of which not less than two-thirds of the amount appropriated under this section for each fiscal year shall be available to carry out the activities described in section 5203(b)(1).

**"PART C—ASSISTANCE TO ADDRESS SCHOOL DROPOUT PROBLEMS**

**"SEC. 5301. SHORT TITLE.**

"This part may be cited as the 'School Dropout Assistance Act'.

**"SEC. 5302. PURPOSE.**

"The purpose of this part is to reduce the number of children who do not complete their elementary and secondary education by providing grants to local educational agencies to establish—

"(1) effective programs to identify potential student dropouts, including pregnant and parenting teenagers, and prevent such students from dropping out of school;

"(2) effective programs to identify and encourage children who have already dropped out to reenter school and complete their elementary and secondary education;

"(3) effective early intervention programs designed to identify at-risk students in elementary and secondary schools; and

"(4) model systems for collecting and reporting information to local school officials on the number, ages, sex, race or ethnicity, and grade levels of the children not completing their elementary and secondary education and the reasons why such children have dropped out of school.

**"SEC. 5303. GRANTS TO LOCAL EDUCATIONAL AGENCIES.**

"(a) ALLOTMENT TO CATEGORIES OF LOCAL EDUCATIONAL AGENCIES.—From the amount appropriated under section 5308 for any fiscal year, the Secretary shall first reserve not more than \$2,000,000 for the purposes of evaluating programs carried out with assistance under this part in accordance with section 14701. From the remaining amount, the Secretary shall allot the following percentages to each of the following categories of local educational agencies:

"(1) Local educational agencies administering schools with a total enrollment of 100,000 or more elementary and secondary school students shall be allotted 25 percent of such remaining amount.

"(2) Local educational agencies administering schools with a total enrollment of at least 20,000 but less than 100,000 elementary and secondary school students shall be allotted 40 percent of such remaining amount.

"(3) Local educational agencies administering schools with a total enrollment of less than 20,000 elementary and secondary school students shall be allotted 30 percent of such remaining amount. Grants may be made under this paragraph to educational service agencies and consortia of not more than 5 local educational agencies in any case in which the total enrollment of the largest such local educational agency is less than 20,000 elementary and secondary students. Such agencies and consortia may also apply for assistance under this part in conjunction with the State educational agency. Not less than 20 percent of funds available under this paragraph shall be awarded to local educational agencies administering schools with a total enrollment of less than 2,000 elementary and secondary school students.

"(4) Community-based organizations shall be allotted 5 percent of such remaining amount. Grants under this paragraph shall be made after consultation between the community-based organization and the local educational agency that is to benefit from such a grant.

"(b) SPECIAL CONSIDERATION.—

"(1) IN GENERAL.—The Secretary shall give special consideration to awarding funds available for each category described in paragraphs (1), (2), and (3) of subsection (a) to local educational agencies participating in an educational partnership.

"(2) EDUCATIONAL PARTNERSHIPS.—For the purpose of this part the term 'educational partnerships' means a partnership between—

"(A) a local educational agency; and

"(B) a business concern or business organization, community-based organization, nonprofit private organization, institution of higher education, State educational agency, State or local public agency, private industry council (established under the Job Training Partnership Act), museum, library, or educational television or broadcasting station.

"(c) AWARD OF GRANT.—

"(1) IN GENERAL.—From the amount allotted for any fiscal year to a category of local educational agencies under subsection (a), the Secretary shall award as many grants as practicable within each such category to local educational agencies and educational partnerships whose applications have been approved by the Secretary for such fiscal year under section 5304 and whose applications propose a program of sufficient size, scope, and quality to be effective.

"(2) ADDITIONAL FUNDS.—Any local educational agency or educational partnership that has received a grant under this part shall be eligible for additional funds as provided under subsection (d).

"(3) TERMS AND CONDITIONS.—Grants under this part shall be made under such terms and conditions as the Secretary shall prescribe.

"(d) USE OF FUNDS WHEN NOT FULLY ALLOTTED TO CATEGORIES UNDER SUBSECTION (a).—

"(1) IN GENERAL.—Whenever the Secretary determines that the full amount of the sums allotted under any category set forth under subsection (a) will not be required for applications of the local educational agencies in the case of categories described in paragraphs (1), (2), or (3) of subsection (a), the Secretary shall make the amount not so required available to another category under subsection (a). In carrying out the provisions of this subsection, the Secretary shall

assure that the transfer of amounts from one category to another is made to a category in which there is the greatest need for funds.

"(2) PEER REVIEW.—In order to transfer funds under this subsection, the Secretary shall use a peer review process to determine that such excess funds are not needed to fund projects in particular categories and shall prepare a list of the categories in which funds were not fully expended and the reasons therefor, and make such list available to local educational agencies and educational partnerships upon request. The Secretary may use the peer review process to determine grant recipients of funds transferred in accordance with this subsection.

"(e) FEDERAL SHARE.—  
"(1) FEDERAL SHARE.—The Federal share of a grant under this part may not exceed—

"(A) 90 percent of the total cost of a project for the first year for which the project receives assistance under this part; and

"(B) 75 percent of such cost in each such succeeding fiscal year.

"(2) REMAINING COSTS.—The remaining cost of a project that receives assistance under this part may be paid from any source other than funds made available under this part, except that not more than 10 percent of the remaining cost in any fiscal year may be provided from Federal sources other than this part.

"(3) NON-FEDERAL SHARE.—The share of payments from sources other than funds made available under this part may be in cash or in kind fairly evaluated, including plant, equipment or services.

**"SEC. 5404. APPLICATION.**

"(a) APPLICATION REQUIRED.—

"(1) IN GENERAL.—A grant under this part may be made only to a local educational agency or an educational partnership which submits an application to the Secretary containing such information as may be required by the Secretary by regulation.

"(2) DURATION.—Each such application shall be for a three-year period.

"(b) CONTENTS.—Each such application shall—

"(1) provide documentation of—

"(A) the number of children who were enrolled in the schools to be served by the applicant for the five academic years prior to the date application is made who have not completed their elementary or secondary education and who are classified as school dropouts; and  
"(B) the percentage that such number of children is of the total school-age population in the applicant's schools;

"(2) include a plan for the development and implementation of a school dropout information collection and reporting system for documenting the extent and nature of the dropout problem, which system shall collect and cross tabulate data, where feasible, by sex according to race or ethnicity and socioeconomic status;

"(3) include a plan for coordinated activities involving not less than 1 secondary school and its feeder junior high or middle schools and elementary schools for local educational agencies that have feeder systems;

"(4) when applicable, describe how programs assisted under this part will be coordinated with, and not duplicate, programs assisted under title I;

"(5) include a description of how the program assisted under this part is consistent with the second National Education Goal, relating to school completion, and other Federal programs as appropriate; and

"(6) contain such other information as the Secretary considers necessary to determine the nature of the local needs, the quality of the proposed project, and the capability of the applicant to carry out the project.

"(c) PRIORITY.—The Secretary shall, in approving applications under this section, give priority to applications which—

"(1) demonstrate the replication of successful programs conducted in other local educational agencies or the expansion of successful programs within a local educational agency; and

"(2) reflect very high numbers or very high percentages of school dropouts in the schools of the applicant in each category described in section 5303(a).

"(d) SPECIAL CONSIDERATION.—The Secretary shall give additional special consideration to applications that include—

"(1) provisions which emphasize early intervention services designed to identify at-risk students in elementary or early secondary schools; and

"(2) provisions for significant parental involvement.

"(e) GRANTS FOR NEW GRANTEEES.—In awarding grants under this part the Secretary shall use only the priorities and special considerations described in subsections (c) and (d).

"(f) CONTINUATION OF ASSISTANCE.—For the two fiscal years beginning after the date of enactment of the Improving America's Schools Act of 1994, the Secretary shall approve an application under this section for a local educational agency which received funding in fiscal year 1994 under the School Dropout Demonstration Assistance Act of 1988 (20 U.S.C. 3241 et seq.) and which—

"(1) satisfies the requirements of this section;

"(2) qualifies for special consideration or priority under—

"(A) section 5303(b); and

"(B) subsections (c) and (d) of this section; and

"(3) provides evidence that the program for which such agency is seeking assistance is effective in—

"(A) providing early intervention services to at-risk students in elementary and secondary schools;

"(B) identifying potential student dropouts; and

"(C) preventing students from dropping out of school.

**"SEC. 5305. AUTHORIZED ACTIVITIES.**

"Grants under this part shall be used to carry out activities and services described in applications approved under section 5304. In addition, grants may be used for educational, occupational, and basic skills testing services and activities, including—

"(1) the establishment of systemwide or school-level policies, procedures, and plans for dropout prevention and school reentry;

"(2) the development and implementation of activities, including extended day or summer programs, designed to address poor achievement, basic skills deficiencies, language deficiencies, or course failures, in order to assist students at risk of dropping out of school and students reentering school, including youth returning to school from a correctional or other facility operated for delinquent youth;

"(3) the establishment or expansion of work-study, apprentice, or internship programs;

"(4) the use of resources of the community, including contracting with public or private entities or community-based organizations of demonstrated performance, to provide services to the grant recipient or the target population;

"(5) the evaluation and revision of program placement of students at risk;

"(6) the evaluation of program effectiveness of dropout programs;

"(7) the development and implementation of programs for traditionally underserved groups of students;

"(8) the implementation of activities which will improve student motivation and the school learning environment;

"(9) the provision of training for school personnel on strategies and techniques designed to—

"(A) identify children at risk of dropping out of school;

"(B) intervene in the instructional program for such children with support and remedial services;

"(C) develop realistic expectations for student performance; and

"(D) improve student-staff interactions;

"(10) the study of the relationship between drugs and school dropouts and between youth gangs and school dropouts, and the coordination of dropout prevention and reentry programs with appropriate drug prevention and community organizations for the prevention of youth gangs;

"(11) the study of the relationship between disabling conditions and student dropouts;

"(12) the study of the relationship between the dropout rate for gifted and talented students compared to the dropout rate for the general student enrollment;

"(13) the use of educational telecommunications and broadcasting technologies and educational materials designed to extend, motivate, and reinforce school, community, and home dropout prevention and reentry activities;

"(14) the development and implementation of efforts to identify and address factors in a student's decision to drop out of school that are related to gender and family roles, including activities and services designed to meet the needs of pregnant and parenting teenagers;

"(15) the provision of other educational, occupational and testing services and activities which directly relate to the purpose of this part;

"(16) activities which offer jobs and college admissions for successful completion of the program for which assistance is sought;

"(17) summer employment programs;

"(18) occupational training programs;

"(19) career opportunity and skills counseling;

"(20) job placement services;

"(21) the development of skill employment competency testing programs;

"(22) special school staff training projects; and

"(23) mentoring programs.

**"SEC. 5306. DISTRIBUTION OF ASSISTANCE; LIMITATION ON COSTS.**

"(a) DISTRIBUTION OF ASSISTANCE.—The Secretary shall ensure that, to the extent practicable, in approving grant applications under this part—

"(1) grants are equitably distributed on a geographic basis within each category set forth in section 5303(a);

"(2) the amount of a grant to a local educational agency or an educational partnership for a fiscal year is proportionate to the extent and severity of the local school dropout problem;

"(3) not less than 30 percent of the amount available for grants in each fiscal year is used for activities relating to school dropout prevention; and

"(4) not less than 30 percent of the amount available for grants in each fiscal year is used for activities relating to persuading school dropouts to return to school and assisting former school dropouts with specialized services once school dropouts return to school.

"(b) ADMINISTRATIVE COSTS.—Not more than five percent of any grant made under this part may be used for administrative costs.

**"SEC. 5307. REPORTS.**

"(a) ANNUAL REPORTS.—The Secretary shall submit to the Congress a report by January 1 of each year, beginning on January 1, 1995, which sets forth the progress of the Commissioner of Education Statistics, established under section 403(b) of the National Education Statistics Act of 1994, to implement a definition and data collection process for school dropouts in elementary

and secondary schools, including statistical information for the number and percentage of elementary and secondary school students by gender, race, and ethnic origin who drop out of school each year, including dropouts—

"(1) throughout the Nation by rural and urban location as defined by the Secretary; and

"(2) in each of the individual States and the District of Columbia.

"(b) **RECOMMENDATIONS.**—The report under subsection (a) shall also contain recommendations on ways in which the Federal Government, States and localities can further support the implementation of an effective methodology to accurately measure school dropout and retention rates on the national, State, and local levels.

**"SEC. 5308. AUTHORIZATION OF APPROPRIATIONS.**

"There are authorized to be appropriated \$50,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this part.

**"TITLE VI—INNOVATIVE EDUCATION PROGRAM STRATEGIES**

**"SEC. 6001. FINDINGS AND STATEMENT OF PURPOSE.**

"(a) **FINDINGS.**—The Congress finds that chapter 2 of title I of this Act (as such chapter was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) has been successful in achieving the goals of increasing local flexibility, reducing administrative burden, providing services for private school students, encouraging innovation, and contributing to the improvement of elementary and secondary educational programs.

"(b) **STATEMENT OF PURPOSE.**—It is the purpose of programs under this title:

"(1) to support local education reform efforts which are consistent with and support statewide reform efforts under Goals 2000: Educate America Act;

"(2) to support State and local efforts to accomplish the National Education Goals;

"(3) to provide funding to enable State and local educational agencies to implement promising educational reform programs;

"(4) to provide a continuing source of innovation, and educational improvement, including support for library services and instructional and media materials; and

"(5) to meet the special educational needs of at risk and high cost students.

"(c) **STATE AND LOCAL RESPONSIBILITY.**—The basic responsibility for the administration of funds made available under this title is within the State educational agencies, but it is the intent of Congress that the responsibility be carried out with a minimum of paperwork and that the responsibility for the design and implementation of programs assisted under this title will be mainly that of local educational agencies, school superintendents and principals, and classroom teachers and supporting personnel, because such agencies and individuals have the most direct contact with students and are most likely to be able to design programs to meet the educational needs of students in their own school districts.

**"SEC. 6002. AUTHORIZATION OF APPROPRIATIONS; DURATION OF ASSISTANCE.**

"(a) **AUTHORIZATION.**—To carry out the purposes of this title, there are authorized to be appropriated \$370,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(b) **DURATION OF ASSISTANCE.**—During the period beginning October 1, 1994, and ending September 30, 1999, the Secretary shall, in accordance with the provisions of this title, make payments to State educational agencies for the purpose of this title.

**"SEC. 6003. DEFINITION.**

"For the purposes of this title the term 'effective schools programs' means school-based pro-

grams that may encompass preschool through secondary school levels and that have the objectives of (1) promoting school-level planning, instructional improvement, and staff development, (2) increasing the academic achievement levels of all children and particularly educationally disadvantaged children, and (3) achieving as ongoing conditions in the school the following factors identified through effective schools research as distinguishing effective from ineffective schools:

"(A) Strong and effective administrative and instructional leadership that creates consensus on instructional goals and organizational capacity for instructional problem solving.

"(B) Emphasis on the acquisition of basic and higher order skills.

"(C) A safe and orderly school environment that allows teachers and pupils to focus their energies on academic achievement.

"(D) A climate of expectation that virtually all children can learn under appropriate conditions.

"(E) Continuous assessment of students and programs to evaluate the effects of instruction.

**"PART A—STATE AND LOCAL PROGRAMS**

**"SEC. 6101. ALLOTMENT TO STATES.**

"(a) **RESERVATIONS.**—From the sums appropriated to carry out this title in any fiscal year, the Secretary shall reserve not to exceed one percent for payments to outlying areas to be allotted in accordance with their respective needs.

"(b) **ALLOTMENT.**—From the remainder of such sums, the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the school-age population of the State bears to the school-age population of all States, except that no State shall receive less than an amount equal to one-half of one percent of such remainder.

"(c) **DEFINITIONS.**—For purposes of this part—

"(1) The term 'school-age population' means the population aged 5 through 17.

"(2) The term 'States' includes the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

**"SEC. 6102. ALLOCATION TO LOCAL EDUCATIONAL AGENCIES.**

"(a) **DISTRIBUTION RULE.**—From the sums made available each year to carry out this title, the State educational agency shall distribute not less than 85 percent to local educational agencies within such State according to the relative enrollments in public and private, nonprofit schools within the school districts of such agencies, adjusted, in accordance with criteria approved by the Secretary, to provide higher per pupil allocations to local educational agencies which have the greatest numbers or percentages of children whose education imposes a higher than average cost per child, such as—

"(1) children living in areas with high concentrations of low-income families;

"(2) children from low-income families; and

"(3) children living in sparsely populated areas.

"(b) **CALCULATION OF ENROLLMENTS.**—

"(1) **IN GENERAL.**—The calculation of relative enrollments under subsection (a) shall be on the basis of the total of—

"(A) the number of children enrolled in public schools; and

"(B) the number of children enrolled in private nonprofit schools that desire that their children participate in programs or projects assisted under this title, for the fiscal year preceding the fiscal year for which the determination is made.

"(2) **CONSTRUCTION.**—Nothing in this subsection shall diminish the responsibility of local educational agencies to contact, on an annual basis, appropriate officials from private nonprofit schools within the areas served by such agencies in order to determine whether such

schools desire that their children participate in programs assisted under this part.

"(3) **ADJUSTMENTS.**—(A) Relative enrollments under subsection (a) shall be adjusted, in accordance with criteria approved by the Secretary under subparagraph (B), to provide higher per pupil allocations only to local educational agencies which serve the greatest numbers or percentages of—

"(i) children living in areas with high concentrations of low-income families;

"(ii) children from low-income families; or

"(iii) children living in sparsely populated areas.

"(B) The Secretary shall review criteria submitted by a State educational agency for adjusting allocations under paragraph (1) and shall approve such criteria only if the Secretary determines that such criteria are reasonably calculated to produce an adjusted allocation that reflects the relative needs within the State's local educational agencies based on the factors set forth in subparagraph (A).

"(c) **PAYMENT OF ALLOCATIONS.**—

"(1) **DISTRIBUTION.**—From the funds paid to a State educational agency pursuant to section 6002 for a fiscal year, a State educational agency shall distribute to each eligible local educational agency which has submitted an application as required in section 6202 the amount of such local educational agency allocation as determined under subsection (a).

"(2) **ADDITIONAL FUNDS.**—(A) Additional funds resulting from higher per pupil allocations provided to a local educational agency on the basis of adjusted enrollments of children described in subsection (a), may, at the discretion of the local educational agency, be allocated for expenditures to provide services for children enrolled in public and private nonprofit schools in direct proportion to the number of children described in subsection (a) and enrolled in such schools within the local educational agency.

"(B) In any fiscal year, any local educational agency that elects to allocate such additional funds in the manner described in subparagraph (A) shall allocate all additional funds to schools within the local educational agency in such manner.

"(C) The provisions of subparagraphs (A) and (B) may not be construed to require any school to limit the use of such additional funds to the provision of services to specific students or categories of students.

**"PART B—STATE PROGRAMS**

**"SEC. 6201. STATE USES OF FUNDS.**

"(a) **AUTHORIZED ACTIVITIES.**—A State educational agency may use funds made available for State use under this title only for—

"(1) State administration of programs under this title including—

"(A) supervision of the allocation of funds to local educational agencies;

"(B) planning, supervision, and processing of State funds; and

"(C) monitoring and evaluation of programs and activities under this title; and

"(2) technical assistance and direct grants to local educational agencies and statewide education reform activities including effective schools programs which assist local educational agencies to provide targeted assistance.

"(b) **LIMITATIONS AND REQUIREMENTS.**—Not more than 25 percent of funds available for State programs under this title in any fiscal year may be used for State administration under subsection (a)(1).

**"SEC. 6202. STATE APPLICATIONS.**

"(a) **APPLICATION REQUIREMENTS.**—Any State which desires to receive assistance under this part shall submit to the Secretary an application which—

"(1) designates the State educational agency as the State agency responsible for administration and supervision of programs assisted under this title;

"(2)(A) provides for a biennial submission of data on the use of funds, the types of services furnished, and the students served under this title; and

"(B) in fiscal year 1998 provides for an evaluation of the effectiveness of programs assisted under this title;

"(3) sets forth the allocation of such funds required to implement section 6402;

"(4) provides that the State educational agency will keep such records and provide such information to the Secretary as may be required for fiscal audit and program evaluation (consistent with the responsibilities of the Secretary under this section);

"(5) provides assurance that, apart from technical and advisory assistance and monitoring compliance with this title, the State educational agency has not exercised and will not exercise any influence in the decision making processes of local educational agencies as to the expenditure made pursuant to an application under section 6303;

"(6) contains assurances that there is compliance with the specific requirements of this title; and

"(7) provides for timely public notice and public dissemination of the information provided pursuant to paragraph (2).

"(b) PERIOD OF APPLICATION.—An application filed by the State under subsection (a) shall be for a period not to exceed three years, and may be amended annually as may be necessary to reflect changes without filing a new application.

"(c) AUDIT RULE.—Local educational agencies receiving less than an average of \$5,000 each under this title shall not be audited more frequently than once every five years.

#### "PART C—LOCAL INNOVATIVE EDUCATION PROGRAMS

##### "SEC. 6301. TARGETED USE OF FUNDS.

"(a) GENERAL RULE.—Funds made available to local educational agencies under section 6102 shall be used for innovative assistance described in subsection (b).

"(b) INNOVATIVE ASSISTANCE.—The innovative assistance programs referred to in subsection (a) include—

"(1) technology related to the implementation of school-based reform programs, including professional development to assist teachers and other school officials regarding how to use effectively such equipment and software;

"(2) programs for the acquisition and use of instructional and educational materials, including library services and materials (including media materials), assessments, reference materials, computer software and hardware for instructional use, and other curricular materials which are tied to high academic standards and which will be used to improve student achievement and which are part of an overall education reform program;

"(3) promising education reform projects, including effective schools and magnet schools;

"(4) programs to improve the higher order thinking skills of disadvantaged elementary and secondary school students and to prevent students from dropping out of school;

"(5) programs to combat illiteracy in the student and adult population, including parent illiteracy;

"(6) programs to provide for the educational needs of gifted and talented children;

"(7) school reform activities that are consistent with the Goals 2000: Educate America Act; and

"(8) school improvement programs or activities under sections 1116 and 1117.

##### "SEC. 6302. ADMINISTRATIVE AUTHORITY.

"In order to conduct the activities authorized by this title, each State or local educational agency may use funds reserved for this title to make grants to and to enter into contracts with

local educational agencies, institutions of higher education, libraries, museums, and other public and private nonprofit agencies, organizations, and institutions.

##### "SEC. 6303. LOCAL APPLICATIONS.

"(a) CONTENTS OF APPLICATION.—A local educational agency or consortium of such agencies may receive an allocation of funds under this title for any year for which an application is submitted to the State educational agency and such application is certified to meet the requirements of this section. The State educational agency shall certify any such application if such application—

"(1)(A) sets forth the planned allocation of funds among innovative assistance programs described in section 6301 and describes the programs, projects, and activities designed to carry out such innovative assistance which the local educational agency intends to support, together with the reasons for the selection of such programs, projects, and activities; and

"(B) sets forth the allocation of such funds required to implement section 6402;

"(2) describes how assistance under this title will contribute to meeting the National Education Goals and improving student achievement or improving the quality of education for students;

"(3) provide assurances of compliance with the provisions of this title, including the participation of children enrolled in private, nonprofit schools in accordance with section 6402;

"(4) agrees to keep such records, and provide such information to the State educational agency as reasonably may be required for fiscal audit and program evaluation, consistent with the responsibilities of the State agency under this title; and

"(5) provides in the allocation of funds for the assistance authorized by this title, and in the design, planning and implementation of such programs, for systematic consultation with parents of children attending elementary and secondary schools in the area served by the local educational agency, with teachers and administrative personnel in such schools, and with other groups involved in the implementation of this title (such as librarians, school counselors, and other pupil services personnel) as may be considered appropriate by the local educational agency.

"(b) PERIOD OF APPLICATION.—An application filed by a local educational agency under subsection (a) shall be for a period not to exceed three fiscal years, may provide for the allocation of funds to programs for a period of three years, and may be amended annually as may be necessary to reflect changes without filing a new application.

"(c) LOCAL EDUCATIONAL AGENCY DISCRETION.—Subject to the limitations and requirements of this title, a local educational agency shall have complete discretion in determining how funds under this part shall be divided among the areas of targeted assistance. In exercising such discretion, a local educational agency shall ensure that expenditures under this part carry out the purposes of this title and are used to meet the educational needs within the schools of such local educational agency.

#### "PART D—GENERAL ADMINISTRATIVE PROVISIONS

##### "SEC. 6401. MAINTENANCE OF EFFORT; FEDERAL FUNDS SUPPLEMENTARY.

"(a) MAINTENANCE OF EFFORT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a State is entitled to receive its full allocation of funds under this part for any fiscal year if the Secretary finds that either the combined fiscal effort per student or the aggregate expenditures within the State with respect to the provision of free public education for the fiscal year preceding the fiscal year for which

the determination is made was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second fiscal year preceding the fiscal year for which the determination is made.

"(2) REDUCTION OF FUNDS.—The Secretary shall reduce the amount of the allocation of funds under this part in any fiscal year in the exact proportion to which the State fails to meet the requirements of paragraph (1) by falling below 90 percent of both the fiscal effort per student and aggregate expenditures (using the measure most favorable to the State), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

"(3) WAIVERS.—The Secretary may waive, for one fiscal year only, the requirements of this section if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

"(b) FEDERAL FUNDS SUPPLEMENTARY.—A State or local educational agency may use and allocate funds received under this part only so as to supplement and, to the extent practical, increase the level of funds that would, in the absence of Federal funds made available under this part, be made available from non-Federal sources, and in no case may such funds be used so as to supplant funds from non-Federal sources.

##### "SEC. 6402. PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS.

"(a) PARTICIPATION ON EQUITABLE BASIS.—

"(1) IN GENERAL.—To the extent consistent with the number of children in the school district of a local educational agency which is eligible to receive funds under this title or which serves the area in which a program or project assisted under this title is located who are enrolled in private nonprofit elementary and secondary schools, or with respect to instructional or personnel training programs funded by the State educational agency from funds made available for State use, such agency, after consultation with appropriate private school officials, shall provide for the benefit of such children in such schools secular, neutral, and non-ideological services, materials, and equipment, including the participation of the teachers of such children (and other educational personnel serving such children) in training programs, and the repair, minor remodeling, or construction of public facilities as may be necessary for their provision (consistent with subsection (c) of this section), or, if such services, materials, and equipment are not feasible or necessary in one or more such private schools as determined by the local educational agency after consultation with the appropriate private school officials, shall provide such other arrangements as will assure equitable participation of such children in the purposes and benefits of this title.

"(2) OTHER PROVISIONS FOR SERVICES.—If no program or project is carried out under paragraph (1) in the school district of a local educational agency, the State educational agency shall make arrangements, such as through contracts with nonprofit agencies or organizations, under which children in private schools in such district are provided with services and materials to the extent that would have occurred if the local educational agency had received funds under this title.

"(3) APPLICATION OF REQUIREMENTS.—The requirements of this section relating to the participation of children, teachers, and other personnel serving such children shall apply to programs and projects carried out under this title by a State or local educational agency, whether directly or through grants to or contracts with other public or private agencies, institutions, or organizations.

"(b) **EQUAL EXPENDITURES.**—Expenditures for programs pursuant to subsection (a) shall be equal (consistent with the number of children to be served) to expenditures for programs under this title for children enrolled in the public schools of the local educational agency, taking into account the needs of the individual children and other factors which relate to such expenditures, and when funds available to a local educational agency under this title are used to concentrate programs or projects on a particular group, attendance area, or grade or age level, children enrolled in private schools who are included within the group, attendance area, or grade or age level selected for such concentration shall, after consultation with the appropriate private school officials, be assured equitable participation in the purposes and benefits of such programs or projects.

"(c) **FUNDS.**—  
 "(1) **ADMINISTRATION OF FUNDS AND PROPERTY.**—The control of funds provided under this title, and title to materials, equipment, and property repaired, remodeled, or constructed with such funds, shall be in a public agency for the uses and purposes provided in this title, and a public agency shall administer such funds and property.

"(2) **PROVISION OF SERVICES.**—The provision of services pursuant to this title shall be provided by employees of a public agency or through contract by such public agency with a person, an association, agency, or corporation who or which, in the provision of such services, is independent of such private school and of any religious organizations, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this title shall not be commingled with State or local funds.

"(d) **STATE PROHIBITION WAIVER.**—If by reason of any provision of law a State or local educational agency is prohibited from providing for the participation in programs of children enrolled in private elementary and secondary schools, as required by this section, the Secretary shall waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

"(e) **WAIVER AND PROVISION OF SERVICES.**—

"(1) **FAILURE TO COMPLY.**—If the Secretary determines that a State or local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in private elementary and secondary schools as required by this section, the Secretary may waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

"(2) **WITHHOLDING OF ALLOCATION.**—Pending final resolution of any investigation or complaint that could result in a determination under this subsection or subsection (d), the Secretary may withhold from the allocation of the affected State or local educational agency the amount estimated by the Secretary to be necessary to pay the cost of those services.

"(f) **DETERMINATION.**—Any determination by the Secretary under this section shall continue in effect until the Secretary determines that there will no longer be any failure or inability on the part of the State or local educational agency to meet the requirements of subsections (a) and (b).

"(g) **PAYMENT FROM STATE ALLOTMENT.**—When the Secretary arranges for services pursuant to this section, the Secretary shall, after consultation with the appropriate public and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allotment of the State under this title.

"(h) **REVIEW.**—

"(1) **WRITTEN OBJECTIONS.**—The Secretary shall not take any final action under this section until the State educational agency and the local educational agency affected by such action have had an opportunity, for not less than 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary or the Secretary's designee to show cause why that action should not be taken.

"(2) **COURT ACTION.**—If a State or local educational agency is dissatisfied with the Secretary's final action after a proceeding under paragraph (1), such agency may, not later than 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based this action, as provided in section 2112 of title 28, United States Code.

"(3) **REMAND TO SECRETARY.**—The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence and the Secretary may make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(4) **COURT REVIEW.**—Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set such action aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(i) **PRIOR DETERMINATION.**—Any bypass determination by the Secretary under chapter 2 of title I of this Act (as such chapter was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) shall, to the extent consistent with the purposes of this title, apply to programs under this title.

#### "SEC. 6403. FEDERAL ADMINISTRATION.

"(a) **TECHNICAL ASSISTANCE.**—The Secretary, upon request, shall provide technical assistance to State and local educational agencies under this title.

"(b) **RULEMAKING.**—The Secretary shall issue regulations under this title only to the extent that such regulations are necessary to ensure that there is compliance with the specific requirements and assurances required by this title.

"(c) **AVAILABILITY OF APPROPRIATIONS.**—Notwithstanding any other provision of law, unless expressly in limitation of this subsection, funds appropriated in any fiscal year to carry out activities under this title shall become available for obligation on July 1 of such fiscal year and shall remain available for obligation until the end of the subsequent fiscal year.

#### "TITLE VII—BILINGUAL EDUCATION, LANGUAGE ENHANCEMENT, AND LANGUAGE ACQUISITION PROGRAMS

##### "PART A—BILINGUAL EDUCATION

#### "SEC. 7101. SHORT TITLE.

"This part may be cited as the 'Bilingual Education Act'.

#### "SEC. 7102. FINDINGS, POLICY, AND PURPOSE.

"(a) **FINDINGS.**—The Congress finds that—  
 "(1) language-minority Americans speak virtually all world languages plus many that are indigenous to the United States;

"(2) there are large and growing numbers of children and youth of limited-English proficiency, many of whom have a cultural heritage

that differs from that of their English-proficient peers;

"(3) the presence of language-minority Americans is related in part to Federal immigration policies;

"(4) many language-minority Americans are limited in their English proficiency, and many have limited education and income;

"(5) limited English proficient children and youth face a number of challenges in receiving an education that will enable such children and youth to participate fully in American society, including—

"(A) segregated education programs;  
 "(B) disproportionate and improper placement in special education and other special programs due to the use of inappropriate evaluation procedures;

"(C) the limited-English proficiency of their own parents, which hinders the parents' ability to fully participate in the education of their children; and

"(D) a shortage of teachers and other staff who are professionally trained and qualified to serve such children and youth;

"(6) Native Americans and Native American languages (as such terms are defined in section 103 of the Native American Languages Act), including native residents of the outlying areas, have a unique status under Federal law that requires special policies within the broad purposes of this Act to serve the education needs of language-minority students in the United States;

"(7) institutions of higher education can assist in preparing teachers, administrators and other school personnel to understand and build upon the educational strengths and needs of language-minority and culturally diverse student enrollments;

"(8) it is the purpose of this title to help ensure that limited English proficient students master English and develop high levels of academic attainment in content areas;

"(9) quality bilingual education programs enable children and youth to learn English and meet high academic standards including proficiency in more than one language;

"(10) as the world becomes increasingly interdependent and as international communication becomes a daily occurrence in government, business, commerce, and family life, multilingual skills constitute an important national resource which deserves protection and development;

"(11) educational technology has the potential for improving the education of language-minority and limited English proficient students and their families, and the Federal Government should foster this development;

"(12) parent and community participation in bilingual education programs contributes to program effectiveness;

"(13) research, evaluation, and data-collection capabilities in the field of bilingual education need to be strengthened so that educators and other staff can better identify and promote those programs, program implementation strategies, and instructional practices that result in effective education of limited English proficient children;

"(14) the use of a child or youth's native language and culture in classroom instruction can—

"(A) promote self-esteem and contribute to academic achievement and learning English by limited English proficient children and youth;

"(B) benefit English-proficient children and youth who also participate in such programs; and

"(C) develop our Nation's national language resources, thus promoting our Nation's competitiveness in the global economy;

"(15) the Federal Government, as exemplified by title VI of the Civil Rights Act of 1964 and section 204(f) of the Equal Education Opportunity Act of 1974, has a special and continuing

obligation to ensure that States and local school districts take appropriate action to provide equal educational opportunities to children and youth of limited English proficiency; and

"(16) the Federal Government also, as exemplified by the Federal Government's efforts under this title, has a special and continuing obligation to assist States and local school districts in developing the capacity to provide programs of instruction that offer limited English proficient children and youth an equal educational opportunity.

"(b) **POLICY.**—The Congress declares it to be the policy of the United States, in order to ensure equal educational opportunity for all children and youth and to promote educational excellence, to assist State and local educational agencies, institutions of higher education and community-based organizations to build their capacity to establish, implement, and sustain programs of instruction for children and youth of limited English proficiency.

"(c) **PURPOSE.**—The purpose of this part is to educate limited English proficient children and youth to meet the same rigorous standards for academic performance expected of all children and youth, including meeting challenging State content standards and challenging State student performance standards in academic areas by—

"(1) developing systemic improvement and reform of educational programs serving limited English proficient students through the development and implementation of exemplary bilingual education programs and special alternative instructional programs;

"(2) developing bilingual skills and multicultural understanding;

"(3) developing the English of such children and youth and, to the extent possible, the native language skills of such children and youth;

"(4) providing similar assistance to Native Americans with certain modifications relative to the unique status of Native American languages under Federal law;

"(5) developing data collection and dissemination, research, materials development, and technical assistance which is focused on school improvement for limited English proficient students; and

"(6) developing programs which strengthen and improve the professional training of educational personnel who work with limited English proficient students.

**"SEC. 7103. AUTHORIZATION OF APPROPRIATIONS.**

"(a) **IN GENERAL.**—For the purpose of carrying out this part, there are authorized to be appropriated \$215,000,000 for the fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(b) **DISTRIBUTION.**—From the sums appropriated under subsection (a) for any fiscal year, the Secretary shall reserve not less than 25 percent of such funds for such year to carry out subpart 3.

**"SEC. 7104. NATIVE AMERICAN AND ALASKA NATIVE CHILDREN IN SCHOOL.**

"(a) **ELIGIBLE ENTITIES.**—For the purpose of carrying out programs under this part for individuals served by elementary, secondary, and postsecondary schools operated predominately for Native American or Alaska Native children and youth, an Indian tribe, a tribally sanctioned educational authority, a Native Hawaiian or Native American Pacific Islander native language education organization, or an elementary or secondary school that is operated or funded by the Bureau of Indian Affairs shall be considered to be a local educational agency as such term is used in this part, subject to the following qualifications:

"(1) **INDIAN TRIBE.**—The term 'Indian tribe' means any Indian tribe, band, nation, or other

organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), that is recognized for the special programs and services provided by the United States to Indians because of their status as Indians.

"(2) **TRIBALLY SANCTIONED EDUCATIONAL AUTHORITY.**—The term 'tribally sanctioned educational authority' means—

"(A) any department or division of education operating within the administrative structure of the duly constituted governing body of an Indian tribe; and

"(B) any nonprofit institution or organization that is—

"(i) chartered by the governing body of an Indian tribe to operate any such school or otherwise to oversee the delivery of educational services to members of that tribe; and

"(ii) approved by the Secretary for the purpose of this section.

"(b) **ELIGIBLE ENTITY APPLICATION.**—Notwithstanding any other provision of this part, each eligible entity described in subsection (a) shall submit any application for assistance under this part directly to the Secretary along with timely comments on the need for the proposed program.

**"SEC. 7105. RESIDENTS OF THE TERRITORIES AND FREELY ASSOCIATED NATIONS.**

"For the purpose of carrying out programs under this part in the outlying areas, the term 'local educational agency' shall include public institutions or agencies whose mission is the preservation and maintenance of native languages.

**"Subpart 1—Bilingual Education Capacity and Demonstration Grants**

**"SEC. 7111. FINANCIAL ASSISTANCE FOR BILINGUAL EDUCATION.**

"The purpose of this subpart is to assist local educational agencies, institutions of higher education, and community-based organizations, through the grants authorized under sections 7112, 7113, 7114, and 7115 to—

"(1) develop and enhance their capacity to provide high-quality instruction through bilingual education or special alternative instructional programs to children and youth of limited English proficiency; and

"(2) to help such children and youth—

"(A) develop proficiency in English, and to the extent possible, their native language; and

"(B) meet the same challenging State content standards and challenging State student performance standards expected for all children and youth as required by section 1111(b).

**"SEC. 7112. PROGRAM DEVELOPMENT AND IMPLEMENTATION GRANTS.**

"(a) **PURPOSE.**—The purpose of this section is to develop and implement new comprehensive, coherent, and successful bilingual education or special alternative instructional programs for limited English proficient students, including programs of early childhood education, kindergarten through twelfth grade education, gifted and talented education, and vocational and applied technology education.

"(b) **PROGRAM AUTHORIZED.**—

"(1) **AUTHORITY.**—(A) The Secretary is authorized to award grants to eligible entities having applications approved under section 7116 to enable such entities to carry out activities described in paragraph (2).

"(B) Each grant under this section shall be awarded for a period of three years.

"(2) **AUTHORIZED ACTIVITIES.**—(A) Grants awarded under this section shall be used to improve the education of limited English proficient students and their families by—

"(i) developing and implementing comprehensive preschool, elementary, or secondary bilingual education or special alternative instructional

programs that are coordinated with other relevant programs and services to meet the full range of educational needs of limited English proficient students; and

"(ii) providing inservice training to classroom teachers, administrators, and other school or community-based organizational personnel to improve the instruction and assessment of language-minority and limited English proficient students.

"(B) Grants under this section may be used to improve the education of limited English proficient students and their families by—

"(i) implementing family education programs and parent outreach and training activities designed to assist parents to become active participants in the education of their children;

"(ii) improving the instructional program for limited English proficient students by identifying, acquiring, and upgrading curriculum, instructional materials, educational software and assessment procedures and, if appropriate, applying educational technology;

"(iii) compensating personnel, including teacher aides who have been specifically trained, or are being trained, to provide services to children and youth of limited English proficiency;

"(iv) providing tutorials and academic or career counseling for children and youth of limited-English proficiency; and

"(v) providing such other activities, related to the purposes of this part, as the Secretary may approve.

"(c) **ELIGIBLE ENTITY.**—For the purpose of this section the term 'eligible entity' means—

"(1) one or more local educational agencies;

"(2) one or more local educational agencies in collaboration with an institution of higher education, community-based organization or local or State educational agency; or

"(3) a community-based organization or an institution of higher education which has an application approved by the local educational agency to develop and implement early childhood education or family education programs or to conduct an instructional program which supplements the educational services provided by a local educational agency.

"(d) **DUE CONSIDERATION.**—In awarding grants under this section, the Secretary shall give due consideration to the need for early childhood education, elementary education, and secondary education programs.

**"SEC. 7113. PROGRAM ENHANCEMENT PROJECTS.**

"(a) **PURPOSE.**—The purpose of this section is to carry out highly focused, innovative, locally designed projects to expand or enhance existing bilingual education or special alternative instructional programs for limited English proficient students.

"(b) **PROGRAM AUTHORIZED.**—

"(1) **AUTHORITY.**—(A) The Secretary is authorized to award grants to eligible entities having applications approved under section 7116 to enable such entities to carry out activities described in paragraph (2).

"(B) Each grant under this section shall be awarded for a period of two years.

"(2) **AUTHORIZED ACTIVITIES.**—(A) Grants under this section shall be used for providing inservice training to classroom teachers, administrators, and other school or community-based organization personnel to improve the instruction and assessment of language-minority and limited English proficient students.

"(B) Grants under this section may be used for—

"(i) implementing family education programs and parent outreach and training activities designed to assist parents to become active participants in the education of their children;

"(ii) improving the instructional program for limited English proficient students by identifying, acquiring, and upgrading curriculum, instructional materials, educational software and

assessment procedures and, if appropriate, applying educational technology;

"(iii) compensating personnel, including teacher aides who have been specifically trained, or are being trained, to provide services to children and youth of limited-English proficiency;

"(iv) providing tutorials and academic or career counseling for children and youth of limited-English proficiency;

"(v) providing intensified instruction; and

"(vi) providing such other activities, related to the purposes of this part, as the Secretary may approve.

"(c) **ELIGIBLE ENTITY.**—For the purpose of this section the term 'eligible entity' means—

"(1) one or more local educational agencies;

"(2) one or more local educational agencies in collaboration with an institution of higher education, community-based organization or local or State educational agency; or

"(3) a community-based organization or an institution of higher education which has an application approved by the local educational agency to enhance early childhood education or family education programs or to conduct an instructional program which supplements the educational services provided by a local educational agency.

#### "SEC. 7114. COMPREHENSIVE SCHOOL GRANTS.

"(a) **PURPOSE.**—The purpose of this section is to provide financial assistance to eligible entities to implement schoolwide bilingual education programs or special alternative instruction programs for reforming, restructuring, and upgrading all relevant programs and operations, within an individual school, that serve all (or virtually all) children and youth of limited-English proficiency in schools with significant concentrations of such children and youth.

"(b) **PROGRAM AUTHORIZED.**—

"(1) **AUTHORITY.**—(A) The Secretary is authorized to award grants to eligible entities having applications approved under section 7116 to enable such entities to carry out activities described in paragraph (3).

"(B) Each grant under this section shall be awarded for five years.

"(2) **TERMINATION.**—The Secretary shall terminate grants to eligible entities under this section if the Secretary determines that—

"(A) the program evaluation required by section 7123 indicates that students in the schoolwide program are not being taught to and are not making adequate progress toward achieving challenging State content standards and challenging State student performance standards; or

"(B) in the case of a program to promote dual language facility, such program is not promoting such facility.

"(3) **AUTHORIZED ACTIVITIES.**—Grants under this section may be used to improve the education of limited English proficient students and their families by—

"(A) implementing family education programs and parent outreach and training activities designed to assist parents to become active participants in the education of their children;

"(B) improving the instructional program for limited English proficient students by identifying, acquiring and upgrading curriculum, instructional materials, educational software and assessment procedures and, if appropriate, applying educational technology;

"(C) compensating personnel, including teacher aides who have been specifically trained, or are being trained, to provide services to children and youth of limited English proficiency;

"(D) providing tutorials and academic or career counseling for children and youth of limited-English proficiency;

"(E) providing intensified instruction; and

"(F) providing such other activities, related to the purposes of this part, as the Secretary may approve.

"(4) **SPECIAL RULE.**—A grant recipient, before carrying out a program assisted under this section, shall plan, train personnel, develop curriculum, and acquire or develop materials.

"(c) **ELIGIBLE ENTITIES.**—For the purpose of this section the term 'eligible entity' means—

"(1) one or more local educational agencies; or

"(2) one or more local educational agencies in collaboration with an institution of higher education, community-based organizations or a local or State educational agency.

#### "SEC. 7115. SYSTEMWIDE IMPROVEMENT GRANTS.

"(a) **PURPOSE.**—The purpose of this section is to implement districtwide bilingual education programs or special alternative instruction programs to improve, reform, and upgrade relevant programs and operations, within an entire local educational agency, that serve a significant number of children and youth of limited English proficiency in local educational agencies with significant concentrations of such children and youth.

"(b) **PROGRAM AUTHORIZED.**—

"(1) **AUTHORITY.**—(A) The Secretary is authorized to award grants to eligible entities having applications approved under section 7116 to enable such entities to carry out activities described in paragraphs (3) and (4).

"(B) Each grant under this section shall be awarded for 5 years.

"(2) **TERMINATION.**—The Secretary shall terminate grants to eligible entities under this section if the Secretary determines that—

"(A) the program evaluation required by section 7123 indicates that students in the program are not being taught to and are not making adequate progress toward achieving challenging State content standards and challenging State student performance standards; or

"(B) in the case of a program to promote dual language facility, such program is not promoting such facility.

"(3) **PREPARATION.**—Grants under this section may be used during the first 12 months exclusively for activities preparatory to the delivery of services.

"(4) **USES.**—Grants under this section may be used to improve the education of limited English proficient students and their families by reviewing, restructuring, and upgrading—

"(A) educational goals, curriculum guidelines and content, standards and assessments;

"(B) personnel policies and practices including recruitment, certification, staff development, and assignment;

"(C) student grade-promotion and graduation requirements;

"(D) student assignment policies and practices;

"(E) family education programs and parent outreach and training activities designed to assist parents to become active participants in the education of their children;

"(F) the instructional program for limited English proficient students by identifying, acquiring and upgrading curriculum, instructional materials, educational software and assessment procedures and, if appropriate, applying educational technology;

"(G) tutorials and academic or career counseling for children and youth of limited-English proficiency; and

"(H) such other activities, related to the purposes of this part, as the Secretary may approve.

"(c) **ELIGIBLE ENTITIES.**—For the purpose of this section the term 'eligible entity' means—

"(1) one or more local educational agencies; or

"(2) one or more local educational agencies in collaboration with an institution of higher education, community-based organizations or a local or State educational agency.

#### "SEC. 7116. APPLICATIONS.

"(a) **IN GENERAL.**—

"(1) **SECRETARY.**—To receive a grant under this subpart, an eligible entity shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require.

"(2) **STATE EDUCATIONAL AGENCY.**—An eligible entity, with the exception of schools funded by the Bureau of Indian Affairs, shall submit a copy of its application under this section to the State educational agency.

"(b) **STATE REVIEW AND COMMENTS.**—

"(1) **DEADLINE.**—The State educational agency, not later than 45 days after receipt of an application under this section, shall review the application and transmit such application to the Secretary.

"(2) **COMMENTS.**—(A) Regarding any application submitted under this title, the State educational agency shall—

"(i) submit to the Secretary written comments regarding all such applications; and

"(ii) submit to each eligible entity the comments that pertain to such entity.

"(B) For purposes of this subpart, such comments shall address how the eligible entity—

"(i) will further the academic achievement of limited English proficient students served pursuant to a grant received under this subpart; and

"(ii) how the grant application is consistent with the State plan submitted under section 1111.

"(c) **ELIGIBLE ENTITY COMMENTS.**—An eligible entity may submit to the Secretary comments that address the comments submitted by the State educational agency.

"(d) **COMMENT CONSIDERATION.**—In making grants under this subpart the Secretary shall take into consideration comments made by a State educational agency.

"(e) **WAIVER.**—Notwithstanding subsection (b), the Secretary is authorized to waive the review requirement of subsection (b) if a State educational agency can demonstrate that such review requirement may impede such agency's ability to fulfill the requirements of participation in the State grant program, particularly such agency's data collection efforts and such agency's ability to provide technical assistance to local educational agencies not receiving funds under this Act.

"(f) **REQUIRED DOCUMENTATION.**—Such application shall include documentation that the applicant has the qualified personnel required to develop, administer, and implement the proposed program.

"(g) **CONTENTS.**—

"(1) **IN GENERAL.**—An application for a grant under this subpart shall contain the following:

"(A) A description of the need for the proposed program, including data on the number of children and youth of limited-English proficiency in the school or school district to be served and the characteristics of such children and youth, such as language spoken, dropout rates, proficiency in English and the native language, academic standing in relation to the English-proficient peers of such children and youth, and, where applicable, the recency of immigration.

"(B) A description of the program to be implemented and how such program's design—

"(i) relates to the linguistic and academic needs of the children and youth of limited-English proficiency to be served;

"(ii) is coordinated with other programs under this Act, the Goals 2000: Educate America Act and other Acts, as appropriate, in accordance with section 14306;

"(iii) involves the parents of the children and youth of limited-English proficiency to be served;

"(iv) ensures accountability in achieving high academic standards; and

"(v) promotes coordination of services for the children and youth of limited-English proficiency to be served and their families.

"(C) A description, if appropriate, of the applicant's collaborative activities with institutions of higher education, community-based organizations, local or State educational agencies, private schools, nonprofit organizations, or businesses in carrying out the proposed program.

"(D) An assurance that the applicant will not reduce the level of State and local funds that the applicant expends for bilingual education or special alternative instruction programs if the applicant receives an award under this subpart.

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

"(F) A budget for grant funds.

"(2) **ADDITIONAL INFORMATION.**—Each application for a grant under section 7114 or 7115 shall—

"(A) describe—

"(i) current services the applicant provides to children and youth of limited-English proficiency;

"(ii) what services children and youth of limited-English proficiency will receive under the grant that such children or youth will not otherwise receive;

"(iii) how funds received under this subpart will be integrated with all other Federal, State, local, and private resources that may be used to serve children and youth of limited-English proficiency;

"(iv) specific achievement and school retention goals for the children and youth to be served by the proposed program and how progress toward achieving such goals will be measured; and

"(v) current family education programs if applicable; and

"(B) provide assurances that—

"(i) the program funded will be integrated with the overall educational program; and

"(ii) the application has been developed in consultation with an advisory council, the majority of whose members are parents and other representatives of the children and youth to be served in such programs.

"(h) **APPROVAL OF APPLICATIONS.**—An application for a grant under this subpart may be approved only if the Secretary determines that—

"(1) the program will use qualified personnel, including personnel who are proficient in the language or languages used for instruction;

"(2) in designing the program for which application is made, the needs of children in nonprofit private elementary and secondary schools have been taken into account through consultation with appropriate private school officials and, consistent with the number of such children enrolled in such schools in the area to be served whose educational needs are of the type and whose language and grade levels are of a similar type to those which the program is intended to address, after consultation with appropriate private school officials, provision has been made for the participation of such children on a basis comparable to that provided for public school children;

"(3) student evaluation and assessment procedures in the program are valid, reliable, and fair for limited English proficient students, and that limited English proficient students who are disabled are identified and served in accordance with the requirements of the Individuals with Disabilities Education Act;

"(4) Federal funds made available for the project or activity will be used so as to supplement the level of State and local funds that, in the absence of such Federal funds, would have

been expended for special programs for children of limited English proficient individuals and in no case to supplant such State and local funds, except that nothing in this paragraph shall be construed to preclude a local educational agency from using funds under this title for activities carried out under an order of a court of the United States or of any State respecting services to be provided such children, or to carry out a plan approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 with respect to services to be provided such children;

"(5) the assistance provided under the application will contribute toward building the capacity of the applicant to provide a program on a regular basis, similar to that proposed for assistance, which will be of sufficient size, scope, and quality to promise significant improvement in the education of students of limited-English proficiency, and that the applicant will have the resources and commitment to continue the program when assistance under this subpart is reduced or no longer available; and

"(6) the applicant provides for utilization of the State and national dissemination sources for program design and in dissemination of results and products.

"(i) **PRIORITIES AND SPECIAL RULES.**—

"(1) **PRIORITY.**—The Secretary shall give priority to applications which provide for the development of bilingual proficiency both in English and another language for all participating students.

"(2) **SPECIAL ALTERNATIVE INSTRUCTIONAL PROGRAM.**—Grants for special alternative instructional programs under this subpart shall not exceed 25 percent of the funds provided for any type of grant under any section, or of the total funds provided, under this subpart for any fiscal year.

"(3) **SPECIAL RULE.**—Notwithstanding paragraph (2), the Secretary may award grants under this subpart for special alternative instructional programs if an applicant has demonstrated that the applicant cannot develop and implement a bilingual education program for the following reasons:

"(A) Where the diversity of the limited English proficient students' native languages and the small number of students speaking each respective language makes bilingual education impractical.

"(B) Where, despite documented efforts, the applicant has not been able to hire qualified instructional personnel who are able to communicate in the students' native language.

"(4) **CONSIDERATION.**—In approving applications under this subpart, the Secretary shall give consideration to the degree to which the program for which assistance is sought involves the collaborative efforts of institutions of higher education, community-based organizations, the appropriate local and State educational agency, or businesses.

"(5) **DUE CONSIDERATION.**—The Secretary shall give due consideration to applications providing training for personnel participating in or preparing to participate in the program which will assist such personnel in meeting State and local certification requirements and that, to the extent possible, describe how college or university credit will be awarded for such training.

"(6) **SEC. 7117. INTENSIFIED INSTRUCTION.**

"In carrying out this subpart, each grant recipient may intensify instruction for limited English proficient students by—

"(1) expanding the educational calendar of the school in which such student is enrolled to include programs before and after school and during the summer months;

"(2) expanding the use of professional and volunteer aids;

"(3) applying technology to the course of instruction; and

"(4) providing intensified instruction through supplementary instruction or activities, including educationally enriching extracurricular activities, during times when school is not routinely in session.

"(7) **SEC. 7118. CAPACITY BUILDING.**

"Each recipient of a grant under this subpart shall use the grant in ways that will build such recipient's capacity to continue to offer high-quality bilingual and special alternative education programs and services to children and youth of limited-English proficiency once Federal assistance is reduced or eliminated.

"(8) **SEC. 7119. SUBGRANTS.**

"A local educational agency that receives a grant under this subpart may, with the approval of the Secretary, make a subgrant to, or enter into a contract with, an institution of higher education, a nonprofit organization, or a consortium of such entities to carry out an approved program, including a program to serve out-of-school youth.

"(9) **SEC. 7120. PRIORITY ON FUNDING.**

"The Secretary shall give priority to applications under this subpart that describe a program that—

"(1) enrolls a large percentage or large number of limited English proficient students;

"(2) takes into account significant increases in limited English proficient children and youth, including such children and youth in areas with low concentrations of such children and youth; and

"(3) ensures that activities assisted under this subpart address the needs of school systems of all sizes and geographic areas, including rural and urban schools.

"(10) **SEC. 7121. COORDINATION WITH OTHER PROGRAMS.**

"In order to secure the most flexible and efficient use of Federal funds, any State receiving funds under this subpart shall coordinate its program with other programs under this Act, the Goals 2000: Educate America Act, and other Acts, as appropriate, in accordance with section 14306.

"(11) **SEC. 7122. PROGRAMS FOR NATIVE AMERICANS AND PUERTO RICO.**

"Programs authorized under this part that serve Native American children, Native Pacific Island children, and children in the Commonwealth of Puerto Rico, notwithstanding any other provision of this part, may include programs of instruction, teacher training, curriculum development, evaluation, and testing designed for Native American children and youth learning and studying Native American languages and children and youth of limited-Spanish proficiency, except that one outcome of such programs serving Native American children shall be increased English proficiency among such children.

"(12) **SEC. 7123. EVALUATIONS.**

"(a) **EVALUATION.**—Each recipient of funds under this subpart shall provide the Secretary with an evaluation, in the form prescribed by the Secretary, of such recipient's program every two years.

"(b) **USE OF EVALUATION.**—Such evaluation shall be used by a grant recipient—

"(1) for program improvement;

"(2) to further define the program's goals and objectives; and

"(3) to determine program effectiveness.

"(c) **EVALUATION COMPONENTS.**—Evaluations shall include—

"(1) how students are achieving the State student performance standards, if any, including data comparing children and youth of limited-English proficiency with nonlimited English proficient children and youth with regard to school retention, academic achievement, and gains in English (and, where applicable, native language) proficiency;

"(2) program implementation indicators that provide information for informing and improving program management and effectiveness, including data on appropriateness of curriculum in relationship to grade and course requirements, appropriateness of program management, appropriateness of the program's staff professional development, and appropriateness of the language of instruction;

"(3) program context indicators that describe the relationship of the activities funded under the grant to the overall school program and other Federal, State, or local programs serving children and youth of limited English proficiency; and

"(4) such other information as the Secretary may require.

**"SEC. 7124. CONSTRUCTION.**

"Nothing in this part shall be construed to prohibit a local educational agency from serving limited English proficient children and youth simultaneously with students with similar educational needs, in the same educational settings where appropriate.

**"Subpart 2—Research, Evaluation, and Dissemination**

**"SEC. 7131. AUTHORITY.**

"(a) IN GENERAL.—The Secretary is authorized to conduct data collection, dissemination, research, and ongoing program evaluation activities in accordance with the provisions of this subpart for the purpose of improving bilingual education and special alternative instruction programs for children and youth of limited English proficiency.

"(b) COMPETITIVE AWARDS.—Research and program evaluation activities carried out under this subpart shall be supported through competitive grants, contracts and cooperative agreements awarded institutions of higher education, nonprofit organizations, and State and local educational agencies.

"(c) ADMINISTRATION.—The Secretary shall conduct data collection, dissemination, and ongoing program evaluation activities authorized by this subpart through the Office of Bilingual Education and Minority Language Affairs.

**"SEC. 7132. RESEARCH.**

"(a) ADMINISTRATION.—The Secretary shall conduct research activities authorized by this subpart through the Office of Educational Research and Improvement in coordination and collaboration with the Office of Bilingual Education and Minority Language Affairs.

"(b) REQUIREMENTS.—Such research activities—

"(1) shall have a practical application to teachers, counselors, paraprofessionals, school administrators, parents, and others involved in improving the education of limited English proficient students and their families;

"(2) may include research on effective instructional practices for multilingual classes, and on effective instruction strategies to be used by teachers and other staff who do not know the native language of a limited English proficient child or youth in their classrooms;

"(3) may include establishing (through the National Center for Education Statistics in consultation with experts in bilingual education, second language acquisition, and English-as-a-second-language) a common definition of 'limited English proficient student' for purposes of national data collection; and

"(4) shall be administered by individuals with expertise in bilingual education and the needs of limited English proficient students and their families.

**"(c) FIELD-INITIATED RESEARCH.—**

"(1) IN GENERAL.—The Secretary shall reserve not less than 5 percent of the funds made available to carry out this section for field-initiated research conducted by current or recent recipi-

ents of grants under subpart 1 or 2 who have received such grants within the previous five years. Such research may provide for longitudinal studies of students or teachers in bilingual education, monitoring the education of such students from entry in bilingual education through secondary school completion.

"(2) APPLICATIONS.—Applicants for assistance under this subsection may submit an application for such assistance to the Secretary at the same time as applications are submitted under subpart 1 or 2. The Secretary shall complete a review of such applications on a timely basis to allow research and program grants to be coordinated when recipients are awarded two or more such grants.

"(d) CONSULTATION.—The Secretary shall consult with agencies and organizations that are engaged in bilingual education research and practice, or related research, and bilingual education researchers and practitioners to identify areas of study and activities to be funded under this section.

"(e) DATA COLLECTION.—The Secretary shall provide for the continuation of data collection on limited English proficient students as part of the data systems operated by the Department.

**"SEC. 7133. ACADEMIC EXCELLENCE AWARDS.**

"(a) AWARDS.—The Secretary may make grants to, and enter into contracts and cooperative agreements with, State and local educational agencies, nonprofit organizations, and institutions of higher education to promote the adoption and implementation of bilingual education, special alternative instruction programs, and professional development programs that demonstrate promise of assisting children and youth of limited English proficiency to meet challenging State standards.

**"(b) APPLICATIONS.—**

"(1) IN GENERAL.—Each entity desiring an award under this section shall submit an application to the Secretary in such form, at such time, and containing such information and assurances as the Secretary may reasonably require.

"(2) PEER REVIEW.—The Secretary shall use a peer review process, using effectiveness criteria that the Secretary shall establish, to review applications under this section.

"(c) USE OF FUNDS.—Funds under this section shall be used to enhance the capacity of States and local education agencies to provide high quality academic programs for children and youth of limited English proficiency, which may include—

"(1) completing the development of such programs;

"(2) professional development of staff participating in bilingual education programs;

"(3) sharing strategies and materials; and

"(4) supporting professional networks.

"(d) COORDINATION.—Recipients of funds under this section shall coordinate the activities assisted under this section with activities carried out by comprehensive regional assistance centers assisted under part A of title XIII.

**"SEC. 7134. STATE GRANT PROGRAM.**

"(a) STATE GRANT PROGRAM.—The Secretary is authorized to make an award to a State educational agency that demonstrates, to the satisfaction of the Secretary, that such agency, through such agency's own programs and other Federal education programs, effectively provides for the education of children and youth of limited English proficiency within the State.

"(b) PAYMENTS.—The amount paid to a State educational agency under subsection (a) shall not exceed 5 percent of the total amount awarded to local educational agencies within the State under subpart 1 for the previous fiscal year, except that in no case shall the amount paid by the Secretary to any State educational agency under this subsection for any fiscal year be less than \$100,000.

**"(c) USE OF FUNDS.—**

"(1) IN GENERAL.—A State educational agency shall use funds awarded under this section for programs authorized by this section to—

"(A) assist local educational agencies in the State with program design, capacity building, assessment of student performance, and program evaluation; and

"(B) collect data on the State's limited English proficient populations and the educational programs and services available to such populations.

"(2) EXCEPTION.—States which do not, as of the date of enactment of the Improving America's Schools Act of 1994, have in place a system for collecting the data described in subparagraph (B) of paragraph (1) for all students in such State, are not required to meet the requirement of such subparagraph. In the event such State develops a system for collecting data on the educational programs and services available to all students in the State, then such State shall comply with the requirement of paragraph (1)(B).

"(3) TRAINING.—The State educational agency may also use funds provided under this section for the training of State educational agency personnel in educational issues affecting limited English proficient children and youth.

"(4) SPECIAL RULE.—Recipients of funds under this section shall not restrict the provision of services under this section to federally funded programs.

"(d) STATE CONSULTATION.—A State educational agency receiving funds under this section shall consult with recipients of grants under this title and other individuals or organizations involved in the development or operation of programs serving limited English proficient children or youth to ensure that such funds are used in a manner consistent with the requirements of this title.

"(e) APPLICATIONS.—A State educational agency desiring to receive funds under this section shall submit an application to the Secretary in such form, at such time, and containing such information and assurances as the Secretary may require.

"(f) SUPPLEMENT NOT SUPPLANT.—Funds made available under this section for any fiscal year shall be used by the State educational agency to supplement and, to the extent practical, to increase to the level of funds that would, in the absence of such funds, be made available by the State for the purposes described in this section, and in no case to supplant such funds.

"(g) REPORT TO THE SECRETARY.—State educational agencies receiving awards under this section shall provide for the annual submission of a summary report to the Secretary describing such State's use of such funds.

**"SEC. 7135. NATIONAL CLEARINGHOUSE FOR BILINGUAL EDUCATION.**

"(a) ESTABLISHMENT.—The Secretary shall establish and support the operation of a National Clearinghouse for Bilingual Education, which shall collect, analyze, synthesize, and disseminate information about bilingual education and related programs.

"(b) FUNCTIONS.—The National Clearinghouse for Bilingual Education shall—

"(1) be administered as an adjunct clearinghouse of the Educational Resources Information Center Clearinghouses system of clearinghouses supported by the Office of Educational Research and Improvement;

"(2) coordinate its activities with Federal data and information clearinghouses and dissemination networks and systems;

"(3) develop a data base management and monitoring system for improving the operation and effectiveness of federally funded bilingual education programs; and

"(4) develop, maintain, and disseminate, through comprehensive regional assistance centers described in part A of title XIII if appropriate, a listing by geographical area of education professionals, parents, teachers, administrators, community members and others who are native speakers of languages other than English for use as a resource by local educational agencies and schools in the development and implementation of bilingual education programs.

**"SEC. 7136. INSTRUCTIONAL MATERIALS DEVELOPMENT.**

"The Secretary may provide grants for the development, publication, and dissemination of high-quality instructional materials in Native American and Native Hawaiian languages and the language of Native Pacific Islanders and natives of the outlying areas for which instructional materials are not readily available. The Secretary shall give priority to the development of instructional materials in languages indigenous to the United States or the outlying areas. The Secretary shall also accord priority to applications for assistance under this section which provide for developing and evaluating materials in collaboration with activities assisted under subparts 1 and 2 and which are consistent with voluntary national content standards and challenging State content standards.

**"Subpart 3—Professional Development**

**"SEC. 7141. PURPOSE.**

"The purpose of this subpart is to assist in preparing educators to improve the educational services for limited English proficient children and youth by supporting professional development programs and the dissemination of information on appropriate instructional practices for such children and youth.

**"SEC. 7142. TRAINING FOR ALL TEACHERS PROGRAM.**

"(a) PURPOSE.—The purpose of this section is to provide for the incorporation of courses and curricula on appropriate and effective instructional and assessment methodologies, strategies and resources specific to limited English proficient students into preservice and inservice professional development programs for teachers, pupil services personnel, administrators and other education personnel in order to prepare such individuals to provide effective services to limited English proficient students.

**"(b) AUTHORIZATION.—**

"(1) AUTHORITY.—The Secretary is authorized to award grants to institutions of higher education, local educational agencies, and State educational agencies or to nonprofit organizations which have entered into consortia arrangements with one of such institutions or agencies.

"(2) DURATION.—Each grant under this section shall be awarded for a period of not more than five years.

"(c) PERMISSIBLE ACTIVITIES.—Activities conducted under this section may include the development of training programs in collaboration with other programs such as programs authorized under titles I and II of this Act, and under the Head Start Act.

**"SEC. 7143. BILINGUAL EDUCATION TEACHERS AND PERSONNEL GRANTS.**

"(a) PURPOSE.—The purpose of this section is to provide for—

"(1) preservice and inservice professional development for bilingual education teachers, administrators, pupil services personnel, and other educational personnel who are either involved in, or preparing to be involved in, the provision of educational services for children and youth of limited-English proficiency; and

"(2) national professional development institutes that assist schools or departments of education in institutions of higher education to im-

prove the quality of professional development programs for personnel serving, preparing to serve, or who may serve, children and youth of limited-English proficiency.

"(b) PRIORITY.—The Secretary shall give priority in awarding grants under this section to institutions of higher education, in consortia with local or State educational agencies, that offer degree programs which prepare new bilingual education teachers in order to increase the availability of educators to provide high-quality education to limited English proficient students.

**"(c) AUTHORIZATION.—**

"(1) The Secretary is authorized to award grants for not more than five years to institutions of higher education which have entered into consortia arrangements with local or State educational agencies to achieve the purposes of this section.

"(2) The Secretary is authorized to make grants for not more than five years to State and local educational agencies for inservice professional development programs.

**"SEC. 7144. BILINGUAL EDUCATION CAREER LADDER PROGRAM.**

"(a) PURPOSE.—The purpose of this section is—

"(1) to upgrade the qualifications and skills of noncertified educational personnel, especially educational paraprofessionals, to meet high professional standards, including certification and licensure as bilingual education teachers and other educational personnel who serve limited English proficient students, through collaborative training programs operated by institutions of higher education and local and State educational agencies; and

"(2) to help recruit and train secondary school students as bilingual education teachers and other educational personnel to serve limited English proficient students.

**"(b) AUTHORIZATION.—**

"(1) IN GENERAL.—The Secretary is authorized to award grants for bilingual education career ladder programs to institutions of higher education applying in consortia with local or State educational agencies, which consortia may include community-based organizations or professional education organizations.

"(2) DURATION.—Each grant under this section shall be awarded for a period of not more than five years.

"(c) PERMISSIBLE ACTIVITIES.—Grants awarded under this section may be used—

"(1) for the development of bilingual education career ladder program curricula appropriate to the needs of the consortium participants;

"(2) to provide assistance for stipends and costs related to tuition, fees and books for enrolling in courses required to complete the degree and certification requirements to become bilingual education teachers; and

"(3) for programs to introduce secondary school students to careers in bilingual education teaching that are coordinated with other activities assisted under this section.

"(d) SPECIAL CONSIDERATION.—The Secretary shall give special consideration to applications under this section which provide for—

"(1) participant completion of baccalaureate and master's degree teacher education programs, and certification requirements and may include effective employment placement activities;

"(2) development of teacher proficiency in English and a second language, including demonstrating proficiency in the instructional use of English and, as appropriate, a second language in classroom contexts;

"(3) coordination with the Federal TRIO programs under chapter 1 of part A of title IV of the Higher Education Act of 1965, the National Mini Corps under subpart 1 of part F of title V

of such Act, the Teacher Corps program under subpart 3 of part C of title V of such Act, and the National Community and Service Trust Act of 1993 programs, and other programs for the recruitment and retention of bilingual students in secondary and postsecondary programs to train to become bilingual educators; and

"(4) the applicant's contribution of additional student financial aid to participating students.

**"SEC. 7145. GRADUATE FELLOWSHIPS IN BILINGUAL EDUCATION PROGRAM.**

**"(a) AUTHORIZATION.—**

"(1) IN GENERAL.—The Secretary may award fellowships for masters, doctoral, and post-doctoral study related to instruction of children and youth of limited-English proficiency in such areas as teacher training, program administration, research and evaluation, and curriculum development, and for the support of dissertation research related to such study.

"(2) NUMBER.—For fiscal year 1994 not less than 500 fellowships leading to a master's or doctorate degree shall be awarded under this section.

"(3) INFORMATION.—The Secretary shall include information on the operation and the number of fellowships awarded under the fellowship program in the evaluation required under section 7149.

**"(b) FELLOWSHIP REQUIREMENTS.—**

"(1) IN GENERAL.—Any person receiving a fellowship under this section shall agree to—

"(A) work in an activity related to the program or in an activity such as an activity authorized under this part, including work as a bilingual education teacher, for a period of time equivalent to the period of time during which such person receives assistance under this section; or

"(B) repay such assistance.

"(2) REGULATIONS.—The Secretary shall establish in regulations such terms and conditions for such agreement as the Secretary deems reasonable and necessary and may waive the requirement of paragraph (1) in extraordinary circumstances.

"(c) PRIORITY.—In awarding fellowships under this section the Secretary may give priority to institutions of higher education that demonstrate experience in assisting fellowship recipients find employment in the field of bilingual education.

**"SEC. 7146. APPLICATION.**

**"(a) IN GENERAL.—**

"(1) SECRETARY.—To receive an award under this subpart, an eligible entity shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require.

"(2) CONSULTATION AND ASSESSMENT.—Each such application shall contain a description of how the applicant has consulted with, and assessed the needs of, public and private schools serving children and youth of limited-English proficiency to determine such school's need for, and the design of, the program for which funds are sought.

"(3) SPECIAL RULE.—(A) An application for a grant under subsection (a) from an applicant who proposes to conduct a master's- or doctoral-level program with funds received under this section shall provide an assurance that such program will include, as a part of the program, a training practicum in a local school program serving children and youth of limited-English proficiency.

"(B) A recipient of a grant under subsection (a) may waive the requirement of a training practicum for a degree candidate with significant experience in a local school program serving children and youth of limited-English proficiency.

"(4) STATE EDUCATIONAL AGENCY.—An eligible entity, with the exception of schools funded by

the Bureau of Indian Affairs, shall submit a copy of the application under this subsection to the State educational agency.

**"(b) STATE REVIEW AND COMMENTS.—**

**"(1) DEADLINE.—**The State educational agency, not later than 45 days after receipt of such application copy, shall review the application and transmit such application to the Secretary.

**"(2) COMMENTS.—(A)** Regarding any application submitted under this subpart, the State educational agency shall—

**"(i)** submit to the Secretary written comments regarding all such applications; and

**"(ii)** submit to each eligible entity the comments that pertain to such entity.

**"(B)** For purposes of this subpart, comments shall address how the eligible entity—

**"(i)** will further the academic achievement of limited English proficient students served pursuant to a grant received under this subpart; and

**"(ii)** how the grant application is consistent with the State plan submitted under section 1111.

**"(3) WAIVER.—**Notwithstanding paragraphs (1) and (2), the Secretary is authorized to waive the review requirement if a State educational agency can demonstrate that such review requirement may impede such agency's ability to fulfill the requirements of participation in the State grant program, particularly such agency's data collection efforts and such agency's ability to provide technical assistance to local educational agencies not receiving funds under this Act.

**"(c) ELIGIBLE ENTITY COMMENTS.—**An eligible entity may submit to the Secretary comments that address the comments submitted by the State educational agency.

**"(d) COMMENT CONSIDERATION.—**In making awards under this subpart the Secretary shall take into consideration comments made by a State educational agency.

**"(e) SPECIAL RULE.—**

**"(1) OUTREACH AND TECHNICAL ASSISTANCE.—**The Secretary shall provide for outreach and technical assistance to institutions of higher education eligible for assistance under title III of the Higher Education Act of 1965 and institutions of higher education that are operated or funded by the Bureau of Indian Affairs to facilitate the participation of such institutions in activities under this part.

**"(2) DISTRIBUTION RULE.—**In making awards under this subpart, the Secretary, consistent with subsection (d), shall ensure adequate representation of Hispanic-serving institutions that demonstrate competence and experience in the programs and activities authorized under this subpart and are otherwise qualified.

**"SEC. 7147. PROGRAM REQUIREMENTS.**

"Activities conducted under this subpart shall assist educational personnel in meeting State and local certification requirements for bilingual education and, wherever possible, shall lead toward the awarding of college or university credit.

**"SEC. 7148. STIPENDS.**

"The Secretary shall provide for the payment of such stipends (including allowances for subsistence and other expenses for such persons and their dependents), as the Secretary determines to be appropriate, to persons participating in training programs under this subpart.

**"SEC. 7149. PROGRAM EVALUATIONS.**

"Each recipient of funds under this subpart shall provide the Secretary with an evaluation of the program assisted under this subpart every two years. Such evaluation shall include data on—

**"(1)** post-program placement of persons trained in a program assisted under this subpart;

**"(2)** how the training relates to the employment of persons served by the program;

**"(3)** program completion; and

**"(4)** such other information as the Secretary may require.

**"SEC. 7150. USE OF FUNDS FOR SECOND LANGUAGE COMPETENCE.**

"Awards under this subpart may be used to develop a program participant's competence in a second language for use in instructional programs.

**"Subpart 4—Transition**

**"SEC. 7161. SPECIAL RULE.**

"Notwithstanding any other provision of law, no recipient of a grant under title VII of this Act (as such title was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) shall be eligible for fourth- and fifth-year renewals authorized by section 7021(d)(1)(C) of such title (as such section was in effect on the day preceding the date of enactment of such Act).

**"PART B—FOREIGN LANGUAGE ASSISTANCE PROGRAM**

**"SEC. 7201. SHORT TITLE.**

"This part may be cited as the 'Foreign Language Assistance Act of 1994'.

**"SEC. 7202. FINDINGS.**

"The Congress finds as follows:

**"(1)** Foreign language proficiency is crucial to our Nation's economic competitiveness and national security. Significant improvement in the quantity and quality of foreign language instruction offered in our Nation's elementary and secondary schools is necessary.

**"(2)** All Americans need a global perspective. To understand the world around us, we must acquaint ourselves with the languages, cultures, and history of other nations.

**"(3)** Proficiency in two or more languages should be promoted for all American students. Multilingualism enhances cognitive and social growth, competitiveness in the global marketplace, national security, and understanding of diverse people and cultures.

**"(4)** The United States lags behind other developed countries in offering foreign language study to elementary and secondary school students.

**"(5)** Four out of five new jobs in the United States are created from foreign trade.

**"(6)** The optimum time to begin learning a second language is in elementary school, when children have the ability to learn and excel in several foreign language acquisition skills, including pronunciation, and when children are most open to appreciating and valuing a culture other than their own.

**"(7)** Foreign language study can increase children's capacity for critical and creative thinking skills and children who study a second language show greater cognitive development in areas such as mental flexibility, creativity, tolerance, and higher order thinking skills.

**"(8)** Children who have studied a foreign language in elementary school achieve expected gains and score higher on standardized tests of reading, language arts, and mathematics than children who have not studied a foreign language.

**"SEC. 7203. PROGRAM AUTHORIZED.**

**"(a) PROGRAM AUTHORITY.—**

**"(1) IN GENERAL.—**The Secretary shall make grants, on a competitive basis, to State educational agencies or local educational agencies to pay the Federal share of the cost of innovative model programs providing for the establishment, improvement or expansion of foreign language study for elementary and secondary school students.

**"(2) DURATION.—**Each grant under paragraph (1) shall be awarded for a period of three years.

**"(b) REQUIREMENTS.—**

**"(1) GRANTS TO STATE EDUCATIONAL AGENCIES.—**In awarding a grant under subsection (a)

to a State educational agency, the Secretary shall support programs that promote systemic approaches to improving foreign language learning in the State.

**"(2) GRANTS TO LOCAL EDUCATIONAL AGENCIES.—**In awarding a grant under subsection (a) to a local educational agency, the Secretary shall support programs that—

**"(A)** show the promise of being continued beyond the grant period;

**"(B)** demonstrate approaches that can be disseminated and duplicated in other local educational agencies; and

**"(C)** may include a professional development component.

**"(c) FEDERAL SHARE.—**

**"(1) IN GENERAL.—**The Federal share for each fiscal year shall be 50 percent.

**"(2) WAIVER.—**The Secretary may waive the requirement of paragraph (1) for any local educational agency which the Secretary determines does not have adequate resources to pay the non-Federal share of the cost of the activities assisted under this part.

**"(3) SPECIAL RULE.—**Not less than three-fourths of the funds appropriated under section 7206 shall be used for the expansion of foreign language learning in the elementary grades.

**"(4) RESERVATION.—**The Secretary may reserve not more than 5 percent of funds appropriated under section 7206 to evaluate the efficacy of programs under this part.

**"SEC. 7204. APPLICATIONS.**

**"(a) IN GENERAL.—**Any State educational agency or local educational agency desiring a grant under this part shall submit an application to the Secretary at such time, in such form, and containing such information and assurances as the Secretary may require.

**"(b) SPECIAL CONSIDERATION.—**The Secretary shall give special consideration to applications describing programs that—

**"(1)** include intensive summer foreign language programs for professional development;

**"(2)** link non-native English speakers in the community with the schools in order to promote two-way language learning; or

**"(3)** promote the sequential study of a foreign language for students, beginning in elementary schools.

**"SEC. 7205. ELEMENTARY SCHOOL FOREIGN LANGUAGE INCENTIVE PROGRAM.**

**"(a) INCENTIVE PAYMENTS.—**From amounts appropriated under section 7206 the Secretary shall make an incentive payment for each fiscal year to each public elementary school that provides to students attending such school a program designed to lead to communicative competency in a foreign language.

**"(b) AMOUNT.—**The Secretary shall determine the amount of the incentive payment under subsection (a) for each public elementary school for each fiscal year on the basis of the number of students participating in a program described in such subsection at such school for such year compared to the total number of such students at all such schools in the United States for such year.

**"(c) REQUIREMENT.—**The Secretary shall consider a program to be designed to lead to communicative competency in a foreign language if such program is comparable to a program that provides not less than 45 minutes of instruction in a foreign language not less than four days per week throughout an academic year.

**"SEC. 7206. AUTHORIZATION OF APPROPRIATIONS.**

"There are authorized to be appropriated \$35,000,000 for the fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this part, of which not more than \$20,000,000 may be used in each fiscal year to carry out section 7205.

**"PART C—EMERGENCY IMMIGRANT EDUCATION PROGRAM**

**"SEC. 7301. FINDINGS AND PURPOSE.**

"(a) FINDINGS.—The Congress finds that—  
 "(1) the education of our Nation's children and youth is one of the most sacred government responsibilities;

"(2) local educational agencies have struggled to fund adequately education services;

"(3) in the case of *Plyler v. Doe*, the Supreme Court held that States have a responsibility under the Equal Protection Clause of the Constitution to educate all children, regardless of immigration status; and

"(4) immigration policy is solely a responsibility of the Federal Government.

"(b) PURPOSE.—The purpose of this part is to assist eligible local educational agencies that experience unexpectedly large increases in their student population due to immigration to—

"(1) provide high-quality instruction to immigrant children and youth; and

"(2) help such children and youth—

"(A) with their transition into American society; and

"(B) meet the same challenging State performance standards expected of all children and youth.

**"SEC. 7302. STATE ADMINISTRATIVE COSTS.**

"For any fiscal year, a State educational agency may reserve not more than 1.5 percent of the amount allocated to such agency under section 7304 to pay the costs of performing such agency's administrative functions under this part.

**"SEC. 7303. WITHHOLDING.**

"Whenever the Secretary, after providing reasonable notice and opportunity for a hearing to any State educational agency, finds that there is a failure to meet the requirement of any provision of this part, the Secretary shall notify that agency that further payments will not be made to the agency under this part, or in the discretion of the Secretary, that the State educational agency shall not make further payments under this part to specified local educational agencies whose actions cause or are involved in such failure until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, no further payments shall be made to the State educational agency under this part, or payments by the State educational agency under this part shall be limited to local educational agencies whose actions did not cause or were not involved in the failure, as the case may be.

**"SEC. 7304. STATE ALLOCATIONS.**

"(a) PAYMENTS.—The Secretary shall, in accordance with the provisions of this section, make payments to State educational agencies for each of the fiscal years 1995 through 1999 for the purpose set forth in section 7301(b).

**"(b) ALLOCATIONS.—**

"(1) IN GENERAL.—Except as provided in subsections (c) and (d), of the amount appropriated for each fiscal year for this part, each State participating in the program assisted under this part shall receive an allocation equal to the proportion of such State's number of immigrant children and youth who are enrolled in public elementary or secondary schools under the jurisdiction of each local educational agency described in paragraph (2) within such State, and in nonpublic elementary or secondary schools within the district served by each such local educational agency, relative to the total number of immigrant children and youth so enrolled in all the States participating in the program assisted under this part.

"(2) ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—The local educational agencies referred to in paragraph (1) are those local educational agencies in which the sum of the number of im-

migrant children and youth who are enrolled in public elementary or secondary schools under the jurisdiction of such agencies, and in nonpublic elementary or secondary schools within the districts served by such agencies, during the fiscal year for which the payments are to be made under this part, is equal to—

"(A) at least 500; or

"(B) at least 3 percent of the total number of students enrolled in such public or nonpublic schools during such fiscal year, whichever number is less.

**"(c) DETERMINATIONS OF NUMBER OF CHILDREN AND YOUTH.—**

"(1) IN GENERAL.—Determinations by the Secretary under this section for any period with respect to the number of immigrant children and youth shall be made on the basis of data or estimates provided to the Secretary by each State educational agency in accordance with criteria established by the Secretary, unless the Secretary determines, after notice and opportunity for a hearing to the affected State educational agency, that such data or estimates are clearly erroneous.

"(2) SPECIAL RULE.—No such determination with respect to the number of immigrant children and youth shall operate because of an underestimate or overestimate to deprive any State educational agency of the allocation under this section that such State would otherwise have received had such determination been made on the basis of accurate data.

"(d) REALLOCATION.—Whenever the Secretary determines that any amount of a payment made to a State under this part for a fiscal year will not be used by such State for carrying out the purpose for which the payment was made, the Secretary shall make such amount available for carrying out such purpose to one or more other States to the extent the Secretary determines that such other States will be able to use such additional amount for carrying out such purpose. Any amount made available to a State from any appropriation for a fiscal year in accordance with the preceding sentence shall, for purposes of this part, be regarded as part of such State's payment (as determined under subsection (b)) for such year, but shall remain available until the end of the succeeding fiscal year.

**"(e) RESERVATION OF FUNDS.—**

"(1) IN GENERAL.—Notwithstanding any other provision of this part, if the amount appropriated to carry out this part exceeds \$50,000,000 for a fiscal year, a State educational agency may reserve not more than 20 percent of such agency's payment under this part for such year to award grants, on a competitive basis, to local educational agencies within the State as follows:

"(A) At least one-half of such grants shall be made available to eligible local educational agencies (as described in subsection (b)(2)) within the State with the highest numbers and percentages of immigrant children and youth.

"(B) Funds reserved under this paragraph and not made available under subparagraph (A) may be distributed to local educational agencies within the State experiencing a sudden influx of immigrant children and youth which are otherwise not eligible for assistance under this part.

"(2) USE OF GRANT FUNDS.—Each local educational agency receiving a grant under paragraph (1) shall use such grant funds to carry out the activities described in section 7307.

"(3) INFORMATION.—Local educational agencies with the highest number of immigrant children and youth receiving funds under paragraph (1) may make information available on serving immigrant children and youth to local educational agencies in the State with sparse numbers of such children.

**"SEC. 7305. STATE APPLICATIONS.**

"(a) SUBMISSION.—No State educational agency shall receive any payment under this part for

any fiscal year unless such agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

"(1) provide that the educational programs, services, and activities for which payments under this part are made will be administered by or under the supervision of the agency;

"(2) provide assurances that payments under this part will be used for purposes set forth in sections 7301 and 7307, including a description of how local educational agencies receiving funds under this part will use such funds to meet such purposes and will coordinate with other programs assisted under this Act, the Goals 2000: Educate America Act, and other Acts as appropriate;

"(3) provide an assurance that local educational agencies receiving funds under this part will coordinate the use of such funds with programs assisted under part A or title I;

"(4) provide assurances that such payments, with the exception of payments reserved under section 7304(e), will be distributed among local educational agencies within that State on the basis of the number of immigrant children and youth counted with respect to each such local educational agency under section 7304(b)(1);

"(5) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this part without first affording the local educational agency submitting an application for such funds reasonable notice and opportunity for a hearing;

"(6) provide for making such reports as the Secretary may reasonably require to perform the Secretary's functions under this part;

"(7) provide assurances—

"(A) that to the extent consistent with the number of immigrant children and youth enrolled in the nonpublic elementary or secondary schools within the district served by a local educational agency, such agency, after consultation with appropriate officials of such schools, shall provide for the benefit of such children and youth secular, neutral, and nonideological services, materials, and equipment necessary for the education of such children and youth;

"(B) that the control of funds provided under this part to any materials, equipment, and property repaired, remodeled, or constructed with those funds shall be in a public agency for the uses and purposes provided in this part, and a public agency shall administer such funds and property; and

"(C) that the provision of services pursuant to this paragraph shall be provided by employees of a public agency or through contract by such public agency with a person, association, agency, or corporation who or which, in the provision of such services, is independent of such nonpublic elementary or secondary school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this paragraph shall not be commingled with State or local funds;

"(8) provide that funds reserved under subsection (e) of section 7304 be awarded on a competitive basis based on merit and need in accordance with such subsection; and

"(9) provide an assurance that State and local educational agencies receiving funds under this part will comply with the requirements of section 1120(b).

**"(b) APPLICATION REVIEW.—**

"(1) IN GENERAL.—The Secretary shall review all applications submitted pursuant to this section by State educational agencies.

"(2) APPROVAL.—The Secretary shall approve any application submitted by a State educational agency that meets the requirements of this section.

"(3) **DISAPPROVAL.**—The Secretary shall disapprove any application submitted by a State educational agency which does not meet the requirements of this section, but shall not finally disapprove an application except after providing reasonable notice, technical assistance, and an opportunity for a hearing to the State.

**"SEC. 7306. ADMINISTRATIVE PROVISIONS.**

"(a) **NOTIFICATION OF AMOUNT.**—The Secretary, not later than June 1 of each year, shall notify each State educational agency that has an application approved under section 7305 of the amount of such agency's allocation under section 7304 for the succeeding year.

"(b) **SERVICES TO CHILDREN ENROLLED IN NONPUBLIC SCHOOLS.**—If by reason of any provision of law a local educational agency is prohibited from providing educational services for children enrolled in elementary and secondary nonpublic schools, as required by section 7305(a)(7), or if the Secretary determines that a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in such schools, the Secretary may waive such requirement and shall arrange for the provision of services, subject to the requirements of this part, to such children. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with the provisions of title I.

**"SEC. 7307. USES OF FUNDS.**

"(a) **USE OF FUNDS.**—Funds awarded under this part shall be used to pay for enhanced instructional opportunities for immigrant children and youth, which may include—

"(1) family literacy, parent outreach, and training activities designed to assist parents to become active participants in the education of their children;

"(2) salaries of personnel, including teacher aides who have been specifically trained, or are being trained, to provide services to immigrant children and youth;

"(3) tutorials, mentoring, and academic or career counseling for immigrant children and youth;

"(4) identification and acquisition of curricular materials, educational software, and technologies to be used in the program;

"(5) basic instructional services which are directly attributable to the presence in the school district of immigrant children, including the costs of providing additional classroom supplies, overhead costs, costs of construction, acquisition or rental of space, costs of transportation, or such other costs as are directly attributable to such additional basic instructional services; and

"(6) such other activities, related to the purposes of this part, as the Secretary may authorize.

"(b) **CONSORTIA.**—A local educational agency that receives a grant under this part may collaborate or form a consortium with one or more local educational agencies, institutions of higher education, and nonprofit organizations to carry out the program described in an application approved under this part.

"(c) **SUBGRANTS.**—A local educational agency that receives a grant under this part may, with the approval of the Secretary, make a subgrant to, or enter into a contract with, an institution of higher education, a nonprofit organization, or a consortium of such entities to carry out a program described in an application approved under this part, including a program to serve out-of-school youth.

"(d) **CONSTRUCTION.**—Nothing in this part shall be construed to prohibit a local educational agency from serving immigrant children simultaneously with students with similar educational needs, in the same educational settings where appropriate.

**"SEC. 7308. REPORTS.**

"(a) **BIENNIAL REPORT.**—Each State educational agency receiving funds under this part shall submit, once every two years, a report to the Secretary concerning the expenditure of funds by local educational agencies under this part. Each local educational agency receiving funds under this part shall submit to the State educational agency such information as may be necessary for such report.

"(b) **REPORT TO CONGRESS.**—The Secretary shall submit, once every two years, a report to the appropriate committees of the Congress concerning programs assisted under this part in accordance with section 14701.

**"SEC. 7309. AUTHORIZATION OF APPROPRIATIONS.**

"For the purpose of carrying out this part, there are authorized to be appropriated \$100,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

**"PART D—ADMINISTRATION**

**"SEC. 7401. RELEASE TIME.**

"The Secretary shall allow professional development programs funded under part A to use funds provided under part A for professional release time to enable individuals to participate in programs assisted under part A.

**"SEC. 7402. EDUCATION TECHNOLOGY.**

"Funds made available under part A may be used to provide for the acquisition or development of education technology or instructional materials, including authentic materials in languages other than English, access to and participation in electronic networks for materials, training and communications, and incorporation of such resources in curricula and programs such as those funded under this title.

**"SEC. 7403. NOTIFICATION.**

"The State educational agency, and when applicable, the State board for postsecondary education, shall be notified within three working days of the date an award under part A is made to an eligible entity within the State.

**"SEC. 7404. CONTINUED ELIGIBILITY.**

"Entities receiving grants under this title shall remain eligible for grants for subsequent activities which extend or expand and do not duplicate those activities supported by a previous grant under this title. In considering applications for grants under this title, the Secretary shall take into consideration the applicant's record of accomplishments under previous grants under this title.

**"SEC. 7405. COORDINATIONS AND REPORTING REQUIREMENTS.**

"(a) **COORDINATION WITH RELATED PROGRAMS.**—In order to maximize Federal efforts aimed at serving the educational needs of children and youth of limited-English proficiency, the Secretary shall coordinate and ensure close cooperation with other programs serving language-minority and limited English proficient students that are administered by the Department and other agencies. The Secretary shall consult with the Secretary of Labor, the Secretary of Health and Human Services, the Secretary of Agriculture, the Attorney General and the heads of other relevant agencies to identify and eliminate barriers to appropriate coordination of programs that affect language-minority and limited English proficient students and their families. The Secretary shall provide for continuing consultation and collaboration, between the Office and relevant programs operated by the Department, including programs under title I and other programs under this Act, in planning, contracts, providing joint technical assistance, providing joint field monitoring activities and in other relevant activities to ensure effective program coordination to provide high quality education opportunities to all language-

minority and limited English proficient students.

"(b) **DATA.**—The Secretary shall, to the extent feasible, ensure that all data collected by the Department shall include the collection and reporting of data on limited English proficient students.

"(c) **PUBLICATION OF PROPOSALS.**—The Secretary shall publish and disseminate all requests for proposals for programs funded under part A.

"(d) **REPORT.**—The Director shall prepare and, not later than February 1 of every other year, shall submit to the Secretary and to the Committee on Labor and Human Resources of the Senate and to the Committee on Education and Labor of the House of Representatives a report on—

"(1) the activities carried out under this title and the effectiveness of such activities in improving the education provided to limited English proficient children and youth;

"(2) a critical synthesis of data reported by the States pursuant to section 7134;

"(3) an estimate of the number of certified bilingual education personnel in the field and an estimate of the number of bilingual education teachers which will be needed for the succeeding five fiscal years;

"(4) the major findings of research carried out under this title; and

"(5) recommendations for further developing the capacity of our Nation's schools to educate effectively limited English proficient students.

**"PART E—GENERAL PROVISIONS**

**"SEC. 7501. DEFINITIONS; REGULATIONS.**

"Except as otherwise provided, for purposes of this title—

"(1) **BILINGUAL EDUCATION PROGRAM.**—The term 'bilingual education program' means an educational program for limited English proficient students that—

"(A) makes instructional use of both English and a student's native language;

"(B) enables limited English proficient students to achieve English proficiency and academic mastery of subject matter content and higher order skills, including critical thinking, so as to meet age-appropriate grade-promotion and graduation standards in concert with the National Education Goals;

"(C) may also develop the native language skills of limited English proficient students, or ancestral languages of American Indians, Alaska Natives, Native Hawaiians and native residents of the outlying areas; and

"(D) may include the participation of English-proficient students if such program is designed to enable all enrolled students to become proficient in English and a second language.

"(2) **CHILDREN AND YOUTH.**—The term 'children and youth' means individuals aged 3 through 21.

"(3) **COMMUNITY-BASED ORGANIZATION.**—The term 'community-based organization' means a private nonprofit organization of demonstrated effectiveness or Indian tribe or tribally sanctioned educational authority which is representative of a community or significant segments of a community and which provides educational or related services to individuals in the community. Such term includes Native Hawaiian organizations including Native Hawaiian Educational Organizations as such term is defined in section 4009 of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (20 U.S.C. 4901 et seq.), as such Act was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994.

"(4) **COMMUNITY COLLEGE.**—The term 'community college' means an institution of higher education as defined in section 1201(a) of the Higher Education Act of 1965 which provides not less than a two-year program which is acceptable

for full credit toward a bachelor's degree, including institutions receiving assistance under the Tribally Controlled Community College Assistance Act of 1978.

"(5) **DIRECTOR.**—The term 'Director' means the Director of the Office of Bilingual Education and Minority Languages Affairs established under section 210 of the Department of Education Organization Act.

"(6) **FAMILY EDUCATION PROGRAM.**—(A) The term 'family education program' means a bilingual education or special alternative instructional program that—

"(i) is designed—

"(I) to help limited English proficient adults and out-of-school youths achieve proficiency in the English language; and

"(II) to provide instruction on how parents and family members can facilitate the educational achievement of their children;

"(ii) when feasible, uses instructional programs such as the models developed under the Even Start Family Literacy Programs, which promote adult literacy and train parents to support the educational growth of their children and the Parents as Teachers Program and the Home Instruction Program for Preschool Youngsters; and

"(iii) gives preference to participation by parents and immediate family members of children attending school.

"(B) Such term may include programs that provide instruction to facilitate higher education and employment outcomes.

"(7) **IMMIGRANT CHILDREN AND YOUTH.**—The term 'immigrant children and youth' means individuals who—

"(A) are aged 3 through 21;

"(B) were not born in any State; and

"(C) have not been attending one or more schools in any one or more States for more than three full academic years.

"(8) **LIMITED ENGLISH PROFICIENCY AND LIMITED ENGLISH PROFICIENT.**—The terms 'limited English proficiency' and 'limited English proficient', when used with reference to an individual, mean an individual—

"(A) who—

"(i) was not born in the United States or whose native language is a language other than English and comes from an environment where a language other than English is dominant; or

"(ii) is a Native American or Alaska Native or who is a native resident of the outlying areas and comes from an environment where a language other than English has had a significant impact on such individual's level of English language proficiency; or

"(iii) is migratory and whose native language is other than English and comes from an environment where a language other than English is dominant; and

"(B) who has sufficient difficulty speaking, reading, writing, or understanding the English language and whose difficulties may deny such individual the opportunity to learn successfully in classrooms where the language of instruction is English or to participate fully in our society.

"(9) **NATIVE AMERICAN AND NATIVE AMERICAN LANGUAGE.**—The terms 'Native American' and 'Native American language' shall have the same meaning given such terms in section 103 of the Native American Languages Act of 1990.

"(10) **NATIVE HAWAIIAN OR NATIVE AMERICAN PACIFIC ISLANDER NATIVE LANGUAGE EDUCATIONAL ORGANIZATION.**—The term 'Native Hawaiian or Native American Pacific Islander native language educational organization' means a nonprofit organization with a majority of its governing board and employees consisting of fluent speakers of the traditional Native American languages used in their educational programs and with not less than five years successful experience in providing educational services in traditional Native American languages.

"(11) **NATIVE LANGUAGE.**—The term 'native language', when used with reference to an individual of limited-English proficiency, means the language normally used by such individual, or in the case of a child or youth, the language normally used by the parents of the child or youth.

"(12) **OFFICE.**—The term 'Office' means the Office of Bilingual Education and Minority Languages Affairs.

"(13) **OTHER PROGRAMS FOR PERSONS OF LIMITED-ENGLISH PROFICIENCY.**—The term 'other programs for persons of limited-English proficiency' means any programs administered by the Secretary that serve persons of limited-English proficiency.

"(14) **PARAPROFESSIONAL.**—The term 'paraprofessional' means an individual who is employed in preschool, elementary or secondary school under the supervision of a certified or licensed teacher, including individuals employed in bilingual education, special education and migrant education.

"(15) **SPECIAL ALTERNATIVE INSTRUCTIONAL PROGRAM.**—The term 'special alternative instructional program' means an educational program for limited English proficient students that—

"(A) utilizes specially designed English language curricula and services but does not use the student's native language for instructional purposes;

"(B) enables limited English proficient students to achieve English proficiency and academic mastery of subject matter content and higher order skills, including critical thinking so as to meet age-appropriate grade-promotion and graduation standards in concert with the National Education Goals; and

"(C) is particularly appropriate for schools where the diversity of the limited English proficient students' native languages and the small number of students speaking each respective language makes bilingual education impractical and where there is a critical shortage of bilingual education teachers.

"SEC. 7502. REGULATIONS AND NOTIFICATION.

"(a) **REGULATION RULE.**—In developing regulations under this title, the Secretary shall consult with State and local educational agencies, organizations representing limited English proficient individuals, and organizations representing teachers and other personnel involved in bilingual education.

"(b) **PARENTAL NOTIFICATION.**—

"(1) **IN GENERAL.**—Parents of children and youth participating in programs assisted under part A shall be informed of—

"(A) a student's level of English proficiency, how such level was assessed, the status of a student's academic achievement and the implications of a student's educational strengths and needs for age and grade appropriate academic attainment, promotion, and graduation;

"(B) what programs are available to meet the student's educational strengths and needs and how the programs differ in content and instructional goals, and in the case of a student with a disability, how the program meets the objectives of a student's individualized education program; and

"(C) the instructional goals of the bilingual education or special alternative instructional program, and how the program will specifically help the limited English proficient student acquire English and meet age-appropriate standards for grade-promotion and graduation, including—

"(i) the benefits, nature, and past academic results of the bilingual educational program and of the instructional alternatives; and

"(ii) the reasons for the selection of their child as being in need of bilingual education.

"(2) **OPTION TO DECLINE.**—(A) Such parents shall also be informed that such parents have

the option of declining enrollment of their children and youth in such programs and shall be given an opportunity to so decline if such parents so choose.

"(B) A local educational agency shall not be relieved of any of its obligations under title VI of the Civil Rights Act of 1964 because parents choose not to enroll their children in bilingual education programs.

"(3) **RECEIPT OF INFORMATION.**—Such parents shall receive, in a manner and form understandable to such parents, including, if necessary and to the extent feasible, in the native language of such parents, the information required by this subsection. At a minimum, such parents shall receive—

"(A) timely information about projects funded under part A; and

"(B) if the parents of participating children so desire, notice of opportunities for regular meetings for the purpose of formulating and responding to recommendations from such parents.

"(4) **SPECIAL RULE.**—Students shall not be admitted to or excluded from any federally assisted education program merely on the basis of a surname or language-minority status.

#### "TITLE VIII—IMPACT AID

##### "SEC. 8001. PURPOSE.

"In order to fulfill the Federal responsibility to assist with the provision of educational services to federally connected children, because certain activities of the Federal Government place a financial burden on the local educational agencies serving areas where such activities are carried out, and to help such children meet challenging State standards, it is the purpose of this title to provide financial assistance to local educational agencies that—

"(1) experience a substantial and continuing financial burden due to the acquisition of real property by the United States;

"(2) educate children who reside on Federal property and whose parents are employed on Federal property;

"(3) educate children of parents who are in the military services and children who live in low-rent housing;

"(4) educate heavy concentrations of children whose parents are civilian employees of the Federal Government and do not reside on Federal property;

"(5) experience sudden and substantial increases or decreases in enrollments because of military realignments; or

"(6) need special assistance with capital expenditures for construction activities because of the enrollments of substantial numbers of children who reside on Federal lands.

##### "SEC. 8002. PAYMENTS RELATING TO FEDERAL ACQUISITION OF REAL PROPERTY.

"(a) **IN GENERAL.**—Where the Secretary, after consultation with any local educational agency and with the appropriate State educational agency, determines for a fiscal year ending prior to October 1, 1999—

"(1) that the United States owns Federal property in the local educational agency, and that such property—

"(A) has been acquired by the United States since 1938;

"(B) was not acquired by exchange for other Federal property in the local educational agency which the United States owned before 1939; and

"(C) had an assessed value (determined as of the time or times when so acquired) aggregating 10 percent or more of the assessed value of—

"(i) all real property in the local educational agency (similarly determined as of the time or times when such Federal property was so acquired); or

"(ii) all real property in the local educational agency as assessed in the first year preceding or

succeeding acquisition, whichever is greater, only if—

"(I) the assessment of all real property in the local educational agency is not made at the same time or times that such Federal property was so acquired and assessed; and

"(II) State law requires an assessment be made of property so acquired; and

"(2) that such agency is not being substantially compensated for the loss in revenue resulting from such ownership by increases in revenue accruing to the agency from the conduct of Federal activities with respect to such Federal property,

then such agency shall be eligible to receive the amount described in subsection (b).

"(b) AMOUNT.—

"(1) IN GENERAL.—(A)(i) The amount that a local educational agency shall be paid under subsection (a) for a fiscal year shall be calculated in accordance with paragraph (2), except that such amount shall be reduced by the Secretary by an amount equal to the amount of revenue, if any, that such agency received during the previous fiscal year from activities conducted on such Federal property.

"(ii) For purposes of clause (i), the amount of revenue that a local educational agency receives during the previous fiscal year from activities conducted on Federal property shall not include payments received by the agency from the Secretary of Defense to support—

"(I) the operation of a domestic dependent elementary or secondary school; or

"(II) the provision of a free public education to dependents of members of the Armed Forces residing on or near a military installation.

"(B) If funds appropriated under section 8014(a) are insufficient to pay the amount determined under subparagraph (A), the Secretary shall ratably reduce the payment to each eligible local educational agency.

"(C) Notwithstanding any other provision of this subsection, a local educational agency may not be paid an amount under this section that, when added to the amount such agency receives under section 8003(b), exceeds the maximum amount that such agency is eligible to receive for such fiscal year under section 8003(b)(1)(C).

"(2) APPLICATION OF CURRENT LEVIED REAL PROPERTY TAX RATE.—In calculating the amount that a local educational agency is eligible to receive for a fiscal year, the Secretary shall apply the current levied real property tax rate for current expenditures levied by fiscally independent local educational agencies, or imputed for fiscally dependent local educational agencies, to the current annually determined aggregate assessed value of such acquired Federal property.

"(3) DETERMINATION OF AGGREGATE ASSESSED VALUE.—Such aggregate assessed value of such acquired Federal property shall be determined on the basis of the highest and best use of property adjacent to such acquired Federal property as of the time such value is determined, and provided to the Secretary, by the local official responsible for assessing the value of real property located in the jurisdiction of such local educational agency for the purpose of levying a property tax.

"(c) APPLICABILITY TO TENNESSEE VALLEY AUTHORITY ACT.—For the purpose of this section, any real property with respect to which payments are being made under section 13 of the Tennessee Valley Authority Act of 1933 shall not be regarded as Federal property.

"(d) OWNERSHIP BY UNITED STATES.—The United States shall be deemed to own Federal property for the purposes of this Act, where—

"(1) prior to the transfer of Federal property, the United States owned Federal property meeting the requirements of subparagraphs (A), (B), and (C) of subsection (a)(1); and

"(2) the United States transfers a portion of the property referred to in paragraph (1) to another nontaxable entity, and the United States—

"(A) restricts some or any construction on such property;

"(B) requires that the property be used in perpetuity for the public purposes for which the property was conveyed;

"(C) requires the grantee of the property to report to the Federal Government (or its agent) regarding information on the use of the property;

"(D) except with the approval of the Federal Government (or its agent), prohibits the sale, lease, assignment, or other disposal of the property unless such sale, lease, assignment, or other disposal is to another eligible government agency; and

"(E) reserves to the Federal Government a right of reversion at any time the Federal Government (or its agent) deems it necessary for the national defense.

"(e) LOCAL EDUCATIONAL AGENCY CONTAINING FOREST SERVICE LAND AND SERVING CERTAIN COUNTIES.—Beginning with fiscal year 1995, a local educational agency shall be deemed to meet the requirements of subsection (a)(1)(C) if such local educational agency meets the following requirements:

"(1) ACREAGE AND ACQUISITION BY THE FOREST SERVICE.—The local educational agency serves a school district that contains between 20,000 and 60,000 acres of land that has been acquired by the Forest Service of the Department of Agriculture between 1915 and 1990, as demonstrated by written evidence from the Forest Service satisfactory to the Secretary.

"(2) COUNTY CHARTER.—The local educational agency serves a county chartered under State law in 1875 or 1890.

"(f) SPECIAL RULE.—Beginning with fiscal year 1994, and notwithstanding any other provision of law limiting the period during which fiscal year 1994 funds may be obligated, the Secretary shall treat the local educational agency serving the Wheatland R-II School District, Wheatland, Missouri, as meeting the eligibility requirements of section 2(a)(1)(C) of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) (20 U.S.C. 237(a)(1)(C)) or subsection (a)(1)(C).

"SEC. 8003. PAYMENTS FOR ELIGIBLE FEDERALLY CONNECTED CHILDREN.

"(a) COMPUTATION OF PAYMENT.—

"(1) IN GENERAL.—For the purpose of computing the amount that a local educational agency is eligible to receive under subsection (b), (d), or (f) for any fiscal year, the Secretary shall determine the number of children who were in average daily attendance in the schools of such agency, and for whom such agency provided free public education, during the preceding school year and who, while in attendance at such schools—

"(A)(i) resided on Federal property with a parent employed on Federal property situated in whole or in part within the boundaries of the school district of such agency; or

"(ii) resided on Federal property with a parent who is an official of, and accredited by, a foreign government and is a foreign military officer;

"(B) resided on Federal property and had a parent on active duty in the uniformed services (as defined in section 101 of title 37, United States Code);

"(C) resided on Indian lands;

"(D)(i) had a parent on active duty in the uniformed services (as defined by section 101 of title 37, United States Code) but did not reside on Federal property; or

"(ii) had a parent who is an official of, and has been accredited by, a foreign government

and is a foreign military officer but did not reside on Federal property;

"(E) resided in low-rent housing;

"(F) resided on Federal property and is not described in subparagraph (A) or (B); or

"(G) resided with a parent employed on Federal property situated—

"(i) in whole or in part in the county in which such agency is located, or in whole or in part in such agency if such agency is located in more than one county; or

"(ii) if not in such county, in whole or in part in the same State as such agency.

"(2) DETERMINATION OF WEIGHTED STUDENT UNITS.—For the purpose of computing the basic support payment under subsection (b), the Secretary shall calculate the total number of weighted student units for a local educational agency by adding together the results obtained by the following computations:

"(A) Multiply the number of children described in subparagraphs (A) and (B) of paragraph (1) by a factor of 1.0.

"(B) Multiply the number of children described in paragraph (1)(C) by a factor of 1.25.

"(C) Multiply the number of children described in subparagraphs (A) and (B) of paragraph (1) by a factor of .35 if the local educational agency has—

"(i) a number of such children described in such subparagraphs which exceeds 6,500; and

"(ii) an average daily attendance for all children which exceeds 100,000.

"(D) Multiply the number of children described in subparagraphs (D) and (E) of paragraph (1) by a factor of .10.

"(E) Multiply the number of children described in subparagraphs (F) and (G) of paragraph (1) by a factor of .05.

"(3) SPECIAL RULE.—The Secretary shall only compute a payment for a local educational agency for children described in subparagraph (F) or (G) of paragraph (1) if the number of such children equals or exceeds 2,000 and such number equals or exceeds 15 percent of the total number of students in average daily attendance in the schools of such agency.

"(b) BASIC SUPPORT PAYMENTS AND PAYMENTS WITH RESPECT TO FISCAL YEARS IN WHICH INSUFFICIENT FUNDS ARE APPROPRIATED.—

"(1) BASIC SUPPORT PAYMENTS.—

"(A) IN GENERAL.—From the amount appropriated under section 8014(b) for a fiscal year, the Secretary is authorized to make basic support payments to eligible local educational agencies with children described in subsection (a).

"(B) ELIGIBILITY.—A local educational agency is eligible to receive a basic support payment under subparagraph (A) for a fiscal year with respect to a number of children determined under subsection (a)(1) only if the number of children so determined with respect to such agency amounts to the lesser of—

"(i) at least 400 such children; or

"(ii) a number of such children which equals at least 3 percent of the total number of children who were in average daily attendance, during such year, at the schools of such agency and for whom such agency provided free public education.

"(C) MAXIMUM AMOUNT.—The maximum amount that a local educational agency is eligible to receive under this subsection for any fiscal year is the sum of the total weighted student units, as computed under subsection (a)(2), multiplied by the greater of—

"(i) one-half of the average per-pupil expenditure of the State in which the local educational agency is located for the third fiscal year preceding the fiscal year for which the determination is made;

"(ii) one-half of the average per-pupil expenditure of all of the States for the third fiscal year preceding the fiscal year for which the determination is made;

"(iii) the comparable local contribution rate certified by the State, as determined under regulations prescribed to carry out the Act of September 30, 1950 (Public Law 874, 81st Congress), as such regulations were in effect on January 1, 1994; or

"(iv) the average per-pupil expenditure of the State in which the local educational agency is located, multiplied by the local contribution percentage.

"(2) PAYMENTS WITH RESPECT TO FISCAL YEARS IN WHICH INSUFFICIENT FUNDS ARE APPROPRIATED.—

"(A) IN GENERAL.—For any fiscal year in which the sums appropriated under section 8014(b) are insufficient to pay to each local educational agency the full amount computed under paragraph (1), the Secretary shall make payments in accordance with this paragraph.

"(B) LEARNING OPPORTUNITY THRESHOLD PAYMENTS.—(i) For fiscal years described in subparagraph (A), the Secretary shall compute a learning opportunity threshold payment (hereafter in this title referred to as the 'threshold payment') by multiplying the amount obtained under paragraph (1)(C) by the total percentage obtained by adding—

"(I) the percentage of federally connected children for each local educational agency determined by calculating the fraction, the numerator of which is the total number of children described under subsection (a)(1) and the denominator of which is the total number of children in average daily attendance at the schools served by such agency; and

"(II) the percentage that funds under paragraph (1)(C) represent of the total budget of the local educational agency, determined by calculating the fraction, the numerator of which is the total amount of funds calculated for each local educational agency under this paragraph (not including amounts received under subsection (f)), and the denominator of which is the total current expenditures for such agency in the second preceding fiscal year for which the determination is made.

"(ii) Such total percentage used to calculate threshold payments under paragraph (1) shall not exceed 100.

"(iii) For the purpose of determining the percentages described in subclauses (I) and (II) of clause (i) that are applicable to the local educational agency providing free public education to students in grades 9 through 12 residing on Hanscom Air Force Base, Massachusetts, the Secretary shall consider only that portion of such agency's total enrollment of students in grades 9 through 12 when calculating the percentage under such subclause (I) and only that portion of the total current expenditures attributed to the operation of grades 9 through 12 in such agency when calculating the percentage under subclause (II).

"(C) RATABLE DISTRIBUTION.—For fiscal years described in subparagraph (A), the Secretary shall make payments as a ratable distribution based upon the computation made under subparagraph (B).

"(c) PRIOR YEAR DATA.—

"(1) IN GENERAL.—Except as provided in paragraph (2) and subsection (f), all calculations under this section shall be based on data for each local educational agency from not later than the fiscal year preceding the fiscal year for which the agency is making application for payment.

"(2) EXCEPTION.—Calculations for a local educational agency that is newly established by a State shall, for the first year of operation of such agency, be based on data from the fiscal year for which the agency is making application for payment.

"(d) CHILDREN WITH DISABILITIES.—

"(1) IN GENERAL.—From the amount appropriated under section 8014(c) for a fiscal year,

the Secretary shall pay to each eligible local educational agency, on a pro rata basis, the amounts determined by—

"(A) multiplying the number of children described in subparagraphs (A)(ii), (B) and (C) of subsection (a)(1) who are eligible to receive services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) by a factor of 1.0; and

"(B) multiplying the number of children described in subparagraph (D) of subsection (a)(1) who are eligible to receive services under such Act by a factor of 0.5.

"(2) USE OF FUNDS.—A local educational agency that receives funds under paragraph (1) shall use such funds to provide a free appropriate public education to children described in paragraph (1) in accordance with the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

"(e) HOLD-HARMLESS AMOUNTS.—

"(1) IN GENERAL.—(A) Except as provided in paragraph (4)(A), the total amount that the Secretary shall pay a local educational agency under subsection (b) shall not be less than 85 percent of the amount such agency received for the preceding fiscal year—

"(i) in the case of fiscal year 1995 only, under subsections (a) and (b) of section 3 of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994); or

"(ii) in the case of fiscal years 1996, 1997, 1998, or 1999, under such subsection (b).

"(B) For fiscal year 1995 only, the Secretary shall pay, to each local educational agency that is not eligible for a payment under subsection (b) but that received a payment under section 3 of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) for fiscal year 1994, an amount which is not less than 85 percent of the payment such agency received under such section 3 for fiscal year 1994.

"(2) TWO-YEAR APPLICABILITY.—Paragraph (1)(A) shall apply to any one local educational agency for a maximum of two consecutive fiscal years.

"(3) PHASE-OUT PAYMENT.—A local educational agency which received a payment under section 3(e) of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) for fiscal year 1994 is eligible to receive a payment, under subsection (b) for fiscal year 1995, in an amount which is not less than 85 percent of the amount received by such agency in fiscal year 1994 under such section 3(e).

"(4) RATABLE REDUCTIONS.—(A)(i) If necessary in order to make payments to local educational agencies in accordance with paragraphs (1) and (2), the Secretary first shall ratably reduce payments under subsection (b) to local educational agencies that do not receive a payment under this subsection.

"(ii) If additional funds become available for making payments under subsection (b) for such fiscal year, payments that were reduced under clause (i) shall be increased on the same basis as such payments were reduced.

"(B)(i) If the sums made available under this title for any fiscal year are insufficient to pay the full amounts that all local educational agencies in all States are eligible to receive under paragraphs (1) and (2) after the application of subparagraph (A) for such year, the Secretary shall ratably reduce payments to all such agencies for such year.

"(ii) If additional funds become available for making payments under paragraphs (1) and (2)

for such fiscal year, payments that were reduced under clause (i) shall be increased on the same basis as such payments were reduced.

"(F) ADDITIONAL ASSISTANCE FOR HEAVILY IMPACTED LOCAL EDUCATIONAL AGENCIES.—

"(1) RESERVATION.—From amounts appropriated under section 8014(b) for a fiscal year, the Secretary shall provide additional assistance to meet special circumstances relating to the provision of education in local educational agencies eligible to receive assistance under this section.

"(2) ELIGIBILITY.—(A) A local educational agency is eligible to receive additional assistance under this subsection only if such agency—

"(i)(I) has an enrollment of federally connected children described in subsection (a)(1) which constitutes a percentage of the total student enrollment of such agency which is not less than 50 percent if such agency receives a payment on behalf of children described in subparagraphs (F) and (G) of such subsection, or not less than 40 percent if such agency does not receive a payment on behalf of such children; and

"(II) has a tax rate for general fund purposes which is at least 95 percent of the average tax rate for general fund purposes of comparable local educational agencies in the State;

"(ii)(I) has an enrollment of federally connected children described in subsection (a)(1) which constitutes at least 35 percent of the total student enrollment of such agency; and

"(II) has a tax rate for general fund purposes which is at least 125 percent of the average tax rate for general fund purposes of comparable local educational agencies in the State; or

"(iii) is a local educational agency whose boundaries are the same as a Federal military installation.

"(B) If the current expenditures in those local educational agencies which the Secretary has determined to be generally comparable to the local educational agency for which a computation is made under subsection (b)(1)(C) are not reasonably comparable because of unusual geographical factors which affect the current expenditures necessary to maintain, in such agency, a level of education equivalent to that maintained in such other agencies, then the Secretary shall increase the local contribution rate for such agency by such an amount which the Secretary determines will compensate such agency for the increase in current expenditures necessitated by such unusual geographical factors. The amount of any such supplementary payment may not exceed the per-pupil share (computed with regard to all children in average daily attendance), as determined by the Secretary, of the increased current expenditures necessitated by such unusual geographic factors.

"(C) Any local educational agency determined eligible under clause (iii) of subparagraph (A) shall be deemed to have met the tax effort requirements for eligibility under clause (i)(II) or (ii)(II) of such subparagraph.

"(3) MAXIMUM PAYMENTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall determine the maximum amount that a local educational agency may receive under this subsection in accordance with the following computations:

"(i) The Secretary shall first determine the greater of—

"(I) the average per-pupil expenditure of the State in which the local educational agency is located or the average per-pupil expenditure of all the States;

"(II) the average per-pupil expenditure of generally comparable local educational agencies located in the State of the local educational agency, as defined in regulations issued by the Secretary; or

"(III) the average per-pupil expenditure of three generally comparable local educational

agencies located in the State of the local educational agency, as defined in regulations issued by the Secretary.

"(ii) The Secretary shall next subtract from the amount determined under clause (i) the average amount of State aid per pupil received by the local educational agency.

"(iii) The Secretary shall next multiply the amount determined under clause (ii) by the total number of students in average daily attendance at the schools of the local educational agency as determined by the Secretary under subsection (a)(1).

"(iv) If the tax rate used by the local educational agency is greater than 95 percent, but less than 100 percent, of the tax rate of comparable local educational agencies, the Secretary shall next multiply the amount determined under clause (iii) by the percentage that the tax rate of the local educational agency is of—

"(I) the average tax rate of its generally comparable local educational agencies; or

"(II) the average tax rate of all the local educational agencies in the State in which the local educational agency is located.

"(v) The Secretary shall next subtract the total amount of payments received by a local educational agency under subsections (b) and (d) for a fiscal year from the amount determined under clause (iii) or clause (iv), as the case may be.

"(B) SPECIAL RULE.—With respect to payments under this subsection for a local educational agency described in clause (ii) or (iii) of paragraph (2)(A), the maximum amount of such payments shall be computed by taking the product of the average per-pupil expenditure in all States multiplied by 0.7, except that such amount may not exceed 125 percent of the average per-pupil expenditure in all local educational agencies in the State.

"(4) CURRENT YEAR DATA.—The Secretary shall, for purposes of providing assistance under this subsection, use—

"(A) student and revenue data from the fiscal year for which the local educational agency is applying for assistance under this subsection; and

"(B) the most recent data available which is adjusted to such fiscal year.

"(5) REDUCTION IN PAYMENTS.—If funds appropriated to carry out this subsection are insufficient to pay in full the amounts determined under paragraph (3), the Secretary shall ratably reduce the payment to each eligible local educational agency.

"(g) ADDITIONAL PAYMENTS FOR LOCAL EDUCATIONAL AGENCIES WITH HIGH CONCENTRATIONS OF CHILDREN WITH SEVERE DISABILITIES.—

"(1) IN GENERAL.—If any local educational agency receives Federal funds from sources other than this title to carry out the purposes of this title for any fiscal year due to the enrollment of children described under subsection (a), then the Secretary shall consider such funds as a payment to such agency under this part for such fiscal year.

"(2) SPECIAL RULE.—Notwithstanding any other provision of law, if funds appropriated pursuant to section 8014(b) for payments under subsection (b) to such agency for a fiscal year which, when added to the funds described in paragraph (1) received by such agency for such fiscal year, exceed the maximum amount described under subsection (b)(1)(C), then the Secretary shall make available from the funds appropriated under section 8014(b) for such fiscal year such excess amounts to any local educational agency serving two or more children described under subparagraph (B) or (D) of subsection (a)(1) who have a severe disability and a parent serving in the uniformed services (as

defined by section 101 of title 37, United States Code) who is assigned to a particular permanent duty station for compassionate reasons (compassionate post assignment) for the total costs associated with such children who are provided an educational program provided outside the schools of such agency.

"(3) REMAINING FUNDS.—If funds remain after payments are made under paragraph (2) for any fiscal year, then such remaining funds shall be made available for expenditures under subsection (d) in such fiscal year on a pro rata basis consistent with the requirements of such subsection.

"(4) RATABLE REDUCTIONS.—If amounts available to carry out paragraph (2) for any fiscal year are insufficient to pay in full the total payment that all eligible local educational agencies are eligible to receive under such paragraph for such year, then the Secretary shall ratably reduce such payments to such agencies for such year.

"(h) OTHER FUNDS.—Notwithstanding any other provision of law, a local educational agency receiving funds under this section may also receive funds under section 6 of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) or such section's successor authority.

"(i) MAINTENANCE OF EFFORT.—A local educational agency may receive funds under sections 8002 and 8003(b) for any fiscal year only if the State educational agency finds that either the combined fiscal effort per student or the aggregate expenditures of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

#### "SEC. 8004. POLICIES AND PROCEDURES RELATING TO CHILDREN RESIDING ON INDIAN LANDS.

"(a) IN GENERAL.—A local educational agency that claims children residing on Indian lands for the purpose of receiving funds under section 8003 shall establish policies and procedures to ensure that—

"(1) such children participate in programs and activities supported by such funds on an equal basis with all other children;

"(2) parents of such children and Indian tribes are afforded an opportunity to present their views on such programs and activities, including an opportunity to make recommendations on the needs of those children and how the local educational agency may help such children realize the benefits of such programs and activities;

"(3) parents and Indian tribes are consulted and involved in planning and developing such programs and activities;

"(4) relevant applications, evaluations, and program plans are disseminated to the parents and Indian tribes; and

"(5) parents and Indian tribes are afforded an opportunity to present their views to such agency regarding such agency's general educational program.

"(b) RECORDS.—A local educational agency that claims children residing on Indian lands for the purpose of receiving funds under section 8003 shall maintain records demonstrating such agency's compliance with the requirements contained in subsection (a).

"(c) WAIVER.—A local educational agency that claims children residing on Indian lands for the purpose of receiving funds under section 8003 shall not be required to comply with the requirements of subsections (a) and (b) for any fiscal year with respect to any Indian tribe from which such agency has received a written state-

ment that the agency need not comply with those subsections because the tribe is satisfied with the provision of educational services by such agency to such children.

"(d) TECHNICAL ASSISTANCE AND ENFORCEMENT.—The Secretary shall—

"(1) provide technical assistance to local educational agencies, parents, and Indian tribes to enable such agencies, parents, and tribes to carry out this section; and

"(2) enforce this section through such actions, which may include the withholding of funds, as the Secretary determines to be appropriate, after affording the affected local educational agency, parents, and Indian tribe an opportunity to present their views.

"(e) COMPLAINTS.—

"(1) IN GENERAL.—(A) Any tribe, or its designee, which has students in attendance at a local educational agency may, in its discretion and without regard to the requirements of any other provision of law, file a written complaint with the Secretary regarding any action of a local educational agency taken pursuant to, or relevant to, the requirements of this section.

"(B) Within ten working days from receipt of a complaint, the Secretary shall—

"(i) designate a time and place for a hearing into the matters relating to the complaint at a location in close proximity to the local educational agency involved, or if the Secretary determines there is good cause, at some other location convenient to both the tribe, or its designee, and the local educational agency;

"(ii) designate a hearing examiner to conduct the hearing; and

"(iii) notify the affected tribe or tribes and the local educational agency involved of the time, place, and nature of the hearing and send copies of the complaint to the local educational agency and the affected tribe or tribes.

"(2) HEARING.—The hearing shall be held within 30 days of the designation of a hearing examiner and shall be open to the public. A record of the proceedings shall be established and maintained.

"(3) EVIDENCE; RECOMMENDATIONS; COST.—The complaining tribe, or its designee, and the local educational agency shall be entitled to present evidence on matters relevant to the complaint and to make recommendations concerning the appropriate remedial actions. Each party to the hearing shall bear only its own costs in the proceedings.

"(4) FINDINGS AND RECOMMENDATIONS.—Within 30 days of the completion of the hearing, the hearing examiner shall, on the basis of the record, make written findings of fact and recommendations concerning appropriate remedial action, if any, which should be taken. The hearing examiner's findings and recommendations, along with the hearing record, shall be forwarded to the Secretary.

"(5) WRITTEN DETERMINATION.—Within 30 days of the Secretary's receipt of the findings, recommendations, and record, the Secretary shall, on the basis of the record, make a written determination of the appropriate remedial action, if any, to be taken by the local educational agency, the schedule for completion of the remedial action, and the reasons for the Secretary's decision.

"(6) COPIES PROVIDED.—Upon completion of the Secretary's final determination, the Secretary shall provide the complaining tribe, or its designee, and the local educational agency with copies of the hearing record, the hearing examiner's findings and recommendations, and the Secretary's final determination. The final determination of the Secretary shall be subject to judicial review.

"(7) CONSOLIDATION.—In all actions under this subsection, the Secretary shall have discretion to consolidate complaints involving the same tribe or local educational agency.

"(8) **WITHHOLDING.**—If the local educational agency rejects the determination of the Secretary, or if the remedy required is not undertaken within the time established and the Secretary determines that an extension of the time established will not effectively encourage the remedy required, the Secretary shall withhold payment of all moneys to which such local agency is eligible under section 8003 until such time as the remedy required is undertaken, except where the complaining tribe or its designee formally requests that such funds be released to the local educational agency, except that the Secretary may not withhold such moneys during the course of the school year if the Secretary determines that such withholding would substantially disrupt the educational programs of the local educational agency.

"(9) **REJECTION OF DETERMINATION.**—If the local educational agency rejects the determination of the Secretary and a tribe exercises the option under section 1101(d) of the Education Amendments of 1978, to have education services provided either directly by the Bureau of Indian Affairs or by contract with the Bureau of Indian Affairs, any Indian students affiliated with that tribe who wish to remain in attendance at the local educational agency against whom the complaint which led to the tribal action under such subsection (d) was lodged may be counted with respect to that local educational agency for the purpose of receiving funds under section 8003. In such event, funds under such section shall not be withheld pursuant to paragraph (8) and no further complaints with respect to such students may be filed under paragraph (1).

"(f) **CONSTRUCTION.**—This section is based upon the special relationship between the Indian nations and the United States and nothing in this section shall be construed to relieve any State of any duty with respect to any citizens of that State.

**"SEC. 8005. APPLICATION FOR PAYMENTS UNDER SECTIONS 8002 AND 8003.**

"(a) **IN GENERAL.**—A local educational agency desiring to receive a payment under section 8002 or 8003 shall—

"(1) submit an application for such payment to the Secretary; and

"(2) provide a copy of such application to the State educational agency.

"(b) **CONTENTS.**—Each such application shall be submitted in such form and manner, and shall contain such information, as the Secretary may require, including—

"(1) information to determine the eligibility of the local educational agency for a payment and the amount of such payment; and

"(2) where applicable, an assurance that such agency is in compliance with section 8004 (relating to children residing on Indian lands).

"(c) **DEADLINE FOR SUBMISSION.**—The Secretary shall establish deadlines for the submission of applications under this section.

"(d) **APPROVAL.**—

"(1) **IN GENERAL.**—The Secretary shall approve an application submitted under this section that—

"(A) except as provided in paragraph (2), is filed by the deadline established under subsection (c); and

"(B) otherwise meets the requirements of this title.

"(2) **REDUCTION IN PAYMENT.**—The Secretary shall approve an application filed not more than 60 days after a deadline established under subsection (c) that otherwise meets the requirements of this title, except that, notwithstanding section 8003(e), the Secretary shall reduce the payment based on such late application by 10 percent of the amount that would otherwise be paid.

"(3) **LATE APPLICATIONS.**—The Secretary shall not accept or approve any application that is

filed more than 60 days after a deadline established under subsection (c).

"(4) **STATE APPLICATION AUTHORITY.**—Notwithstanding any other provision of law, a State educational agency that had been accepted as an applicant for funds under section 3 of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) in fiscal year 1994 shall be permitted to continue as an applicant under the same conditions by which such agency made application during such fiscal year only if such State educational agency distributes all funds received for the students for which application is being made by such State educational agency to the local educational agencies providing educational services to such students.

**"SEC. 8006. PAYMENTS FOR SUDDEN AND SUBSTANTIAL INCREASES IN ATTENDANCE OF MILITARY DEPENDENTS.**

"(a) **ELIGIBILITY.**—A local educational agency is eligible for a payment under this section if—

"(1) the number of children in average daily attendance during the school year for which the determination is made is at least 10 percent or 100 more than the number of children in average daily attendance in the school year preceding the school year for which the determination is made; and

"(2) the number of children in average daily attendance with a parent on active duty (as defined in section 101(18) of title 37, United States Code) in the Armed Forces who are in attendance at such agency because of the assignment of their parent to a new duty station between May 15 and September 30, inclusive, of the fiscal year for which the determination is made, as certified by an appropriate local official of the Department of Defense, is at least 10 percent or 100 more than the number of children in average daily attendance in the preceding school year.

"(b) **APPLICATION.**—A local educational agency that wishes to receive a payment under this section shall file an application with the Secretary by October 15 of the school year for which payment is requested, in such manner and containing such information as the Secretary may prescribe, including information demonstrating that such agency is eligible for such a payment.

"(c) **CHILDREN TO BE COUNTED.**—For each eligible local educational agency that applies for a payment under this section, the Secretary shall determine the lesser of—

"(1) the increase in the number of children in average daily attendance from the school year preceding the fiscal year for which the determination is made; and

"(2) the number of children described in subsection (a)(2).

"(d) **PAYMENTS.**—

"(1) **IN GENERAL.**—Except as provided in paragraph (2), from the amount appropriated for a fiscal year under section 8014(d), the Secretary shall pay each local educational agency with an approved application an amount equal to one-half of the national average per-pupil expenditure multiplied by the number of such children determined under subsection (c) for that local educational agency.

"(2) **RATABLE REDUCTION.**—(A) If the amount appropriated to carry out this section for any fiscal year is insufficient to pay the full payment that all eligible local educational agencies are eligible to receive under this section for such year, then the Secretary shall ratably reduce the payments to such agencies for such year.

"(B) If additional funds become available for making payments under paragraph (1) for such fiscal year, payments that were reduced under subparagraph (A) shall be increased on the same basis as such payments were reduced.

"(e) **NOTIFICATION PROCESS.**—

"(1) **ESTABLISHMENT.**—The Secretary shall establish, with the Secretary of Defense, a notification process relating to the closure of Department of Defense facilities, or the adjustment of personnel levels assigned to such facilities, which may substantially affect the student enrollment levels of local educational agencies which receive or may receive payments under this title.

"(2) **INFORMATION.**—Such process shall provide timely information regarding such closures and such adjustments—

"(A) by the Secretary of Defense to the Secretary; and

"(B) by the Secretary to the affected local educational agencies.

**"SEC. 8007. CONSTRUCTION.**

"(a) **PAYMENTS AUTHORIZED.**—From the amount appropriated for each fiscal year under section 8014(e), the Secretary shall make payments to each local educational agency—

"(1) that receives a basic payment under section 8003(b); and

"(2)(A) in which the number of children determined under section 8003(a)(1)(C) constituted at least 50 percent of the number of children who were in average daily attendance in the schools of such agency during the preceding school year;

"(B) in which the number of children determined under subparagraphs (B) and (D)(i) of section 8003(a)(1) constituted at least 50 percent of the number of children who were in average daily attendance in the schools of such agency during the school year preceding the school year for which the determination is made and in which the agency at any 2 times during the four fiscal years preceding the date of enactment of the Improving America's Schools Act of 1994 was denied by a vote of the agency's eligible voters a bond referendum for the purposes of school construction or renovation;

"(C) that receives assistance under section 8003(f); or

"(D) that receives assistance under section 8006.

"(b) **AMOUNT OF PAYMENTS.**—The amount of a payment to each such agency for a fiscal year shall be equal to—

"(1) the amount appropriated under section 8014(e) for such year; divided by

"(2) the number of children determined under section 8003(a)(2) for all local educational agencies described in subsection (a), but not including any children attending a school assisted or provided by the Secretary under section 8008 or section 10 of the Act of September 23, 1950 (Public Law 815, 81st Congress) (as such Act was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994); multiplied by

"(3) the number of such children determined for such agency.

"(c) **USE OF FUNDS.**—Any local educational agency that receives funds under this section shall use such funds for construction, as defined in section 8013(3).

**"SEC. 8008. FACILITIES.**

"(a) **CURRENT FACILITIES.**—From the amount appropriated for any fiscal year under section 8014(f), the Secretary may continue to provide assistance for school facilities that were supported by the Secretary under section 10 of the Act of September 23, 1950 (Public Law 815, 81st Congress) (as such Act was in effect on the day preceding the date of the enactment of the Improving America's Schools Act of 1994).

"(b) **TRANSFER OF FACILITIES.**—

"(1) **IN GENERAL.**—The Secretary shall, as soon as practicable, transfer to the appropriate local educational agency or another appropriate entity all the right, title, and interest of the United States in and to each facility provided

under section 10 of the Act of September 23, 1950 (Public Law 815, 81st Congress), or under section 204 or 310 of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Acts were in effect on January 1, 1958).

"(2) OTHER REQUIREMENTS.—Any such transfer shall be without charge to such agency or entity, and prior to such transfer, the transfer shall be consented to by the local educational agency or other appropriate entity, and may be made on such terms and conditions as the Secretary deems appropriate to carry out the purposes of this title.

**"SEC. 8009. STATE CONSIDERATION OF PAYMENTS IN PROVIDING STATE AID.**

"(a) GENERAL PROHIBITION.—Except as provided in subsection (b), a State may not—

"(1) consider payments under this title or under the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) in determining for any fiscal year—

"(A) the eligibility of a local educational agency for State aid for free public education; or

"(B) the amount of such aid; or

"(2) make such aid available to local educational agencies in a manner that results in less State aid to any local educational agency that is eligible for such payment than such agency would receive if such agency were not so eligible.

"(b) STATE EQUALIZATION PLANS.—

"(1) IN GENERAL.—A State may reduce State aid to a local educational agency that receives a payment under section 8002 or 8003(b) (except the amount calculated in excess of 1.0 under subparagraph (B) of section 8003(a)(2)) or under the Act of September 30, 1950 (Public Law 874, 81st Congress) as such Act was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994 (other than an increase in payments described in paragraphs (2)(B), (2)(C), (2)(D), or (3)(B)(i) of section 3(d) of such Act of September 30, 1950) for any fiscal year if the Secretary determines, and certifies under subsection (c)(3)(A), that such State has in effect a program of State aid that equalizes expenditures for free public education among local educational agencies in such State.

"(2) COMPUTATION.—

"(A) IN GENERAL.—For purposes of paragraph (1), a program of State aid equalizes expenditures among local educational agencies if, in the second fiscal year preceding the fiscal year for which the determination is made, the amount of per-pupil expenditures made by, or per-pupil revenues available to, the local educational agency in the State with the highest such per-pupil expenditures or revenues did not exceed the amount of such per-pupil expenditures made by, or per-pupil revenues available to, the local educational agency in the State with the lowest such expenditures or revenues by more than—

"(i) 25 percent for fiscal year 1995, 1996, or 1997; and

"(ii) 20 percent for fiscal year 1998 or 1999.

"(B) OTHER FACTORS.—In making a determination under this subsection, the Secretary shall—

"(i) disregard local educational agencies with per-pupil expenditures or revenues above the 95th percentile or below the 5th percentile of such expenditures or revenues in the State; and

"(ii) take into account the extent to which a program of State aid reflects the additional cost of providing free public education in particular types of local educational agencies, such as those that are geographically isolated, or to particular types of students, such as children with disabilities.

"(3) EXCEPTION.—Notwithstanding paragraph (2), if the Secretary determines that the State

has substantially revised its program of State aid, the Secretary may certify such program for any fiscal year only if—

"(A) the Secretary determines, on the basis of projected data, that the State's program will meet the disparity standard described in paragraph (2) for the fiscal year for which the determination is made; and

"(B) the State provides an assurance to the Secretary that, if final data do not demonstrate that the State's program met such standard for the fiscal year for which the determination is made, the State will pay to each affected local educational agency the amount by which the State reduced State aid to the local educational agency.

"(c) PROCEDURES FOR REVIEW OF STATE EQUALIZATION PLANS.—

"(1) WRITTEN NOTICE.—

"(A) IN GENERAL.—Any State that wishes to consider payments described in subsection (b)(1) in providing State aid to local educational agencies shall submit to the Secretary, not later than 120 days before the beginning of the State's fiscal year, a written notice of such State's intention to do so.

"(B) CONTENTS.—Such notice shall be in the form and contain the information the Secretary requires, including evidence that the State has notified each local educational agency in the State of such State's intention to consider such payments in providing State aid.

"(2) OPPORTUNITY TO PRESENT VIEWS.—Before making a determination under subsection (b), the Secretary shall afford the State, and local educational agencies in the State, an opportunity to present their views.

"(3) QUALIFICATION PROCEDURES.—If the Secretary determines that a program of State aid qualifies under subsection (b), the Secretary shall—

"(A) certify the program and so notify the State; and

"(B) afford an opportunity for a hearing, in accordance with section 8011(a), to any local educational agency adversely affected by such certification.

"(4) NON-QUALIFICATION PROCEDURES.—If the Secretary determines that a program of State aid does not qualify under subsection (b), the Secretary shall—

"(A) so notify the State; and

"(B) afford an opportunity for a hearing, in accordance with section 8011(a), to the State, and to any local educational agency adversely affected by such determination.

"(d) TREATMENT OF STATE AID.—

"(1) IN GENERAL.—If a State has in effect a program of State aid for free public education for any fiscal year, which is designed to equalize expenditures for free public education among the local educational agencies of that State, payments under this title or under the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) for any fiscal year may be taken into consideration by such State in determining the relative—

"(A) financial resources available to local educational agencies in that State; and

"(B) financial need of such agencies for the provision of free public education for children served by such agency, except that a State may consider as local resources funds received under this title or under the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) only in proportion to the share that local tax revenues covered under a State equalization program are of total local tax revenues.

"(2) PROHIBITION.—A State may not take into consideration payments under this title or under

the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) before such State's program of State aid has been certified by the Secretary under subsection (c)(3).

"(e) REMEDIES FOR STATE VIOLATIONS.—

"(1) IN GENERAL.—The Secretary or any aggrieved local educational agency may, not earlier than 150 days after an adverse determination by the Secretary against a State for violation of subsections (a) or (d)(2) or for failure to carry out an assurance under subsection (b)(3)(B), and if an administrative proceeding has not been concluded within such time, bring an action in a United States district court against such State for such violations or failure.

"(2) IMMUNITY.—A State shall not be immune under the 11th amendment to the Constitution of the United States from an action described in paragraph (1).

"(3) RELIEF.—The court shall grant such relief as the court determines is appropriate.

**"SEC. 8010. FEDERAL ADMINISTRATION.**

"(a) PAYMENTS IN WHOLE DOLLAR AMOUNTS.—The Secretary shall round any payments under this title to the nearest whole dollar amount.

"(b) OTHER AGENCIES.—Each Federal agency administering Federal property on which children reside, and each agency principally responsible for an activity that may occasion assistance under this title, shall, to the maximum extent practicable, comply with requests of the Secretary for information the Secretary may require to carry out this title.

"(c) SPECIAL RULES.—

"(1) CERTAIN CHILDREN ELIGIBLE UNDER SUBSECTION (a) OR (b) OF SECTION 3 OF PUBLIC LAW 81-874.—Notwithstanding any other provision of law, for any fiscal year before fiscal year 1995, the Secretary shall treat as eligible under subsection (a) or (b) of section 3 of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such subsection was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994), and shall forgive the obligation of a local educational agency to repay any amounts that such agency received under such section for such fiscal year based on, any child who would be eligible under such subsections except that such child does not meet the requirements of subsection (a)(1)(B) or (b)(2)(B), respectively, of such section 3, if such child meets the requirements of paragraph (3) of this subsection.

"(2) CERTAIN CHILDREN ELIGIBLE UNDER SUBPARAGRAPHS (A) AND (G)(ii) OF SECTION 8003(a)(1).—(A) The Secretary shall treat as eligible under subparagraph (A) of section 8003(a)(1) any child who would be eligible under such subparagraph except that the Federal property on which the child resides or on which the child's parent is employed is not in the same State in which the child attends school, if such child meets the requirements of paragraph (3) of this subsection.

"(B) The Secretary shall treat as eligible under subparagraph (G) of section 8003(a)(1) any child who would be eligible under such subparagraph except that such child does not meet the requirements of clause (ii) of such subparagraph, if such child meets the requirements of paragraph (3) of this subsection.

"(3) REQUIREMENTS.—A child meets the requirements of this paragraph if—

"(A) such child resides—

"(i) in a State adjacent to the State in which the local educational agency serving the school such child attends is located; or

"(ii) with a parent employed on Federal property in a State adjacent to the State in which such agency is located;

"(B) the schools of such agency are within a more reasonable commuting distance of such

child's home than the schools of the local educational agency that serves the school attendance area where such child resides;

"(C) attending the schools of the local educational agency that serves the school attendance area where such child resides will impose a substantial hardship on such child;

"(D) the State in which such child attends school provides funds for the education of such child on the same basis as all other public school children in the State, unless otherwise permitted under section 5(d)(2) of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) or section 8009(b) of this title; and

"(E) such agency received a payment for fiscal year 1994 under section 8003(b) (or such section's predecessor authority) on behalf of children described in paragraph (2).

**"SEC. 8011. ADMINISTRATIVE HEARINGS AND JUDICIAL REVIEW.**

"(a) ADMINISTRATIVE HEARINGS.—A local educational agency and a State that is adversely affected by any action of the Secretary under this title or under the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) shall be entitled to a hearing on such action in the same manner as if such agency were a person under chapter 5 of title 5, United States Code.

**"(b) JUDICIAL REVIEW OF SECRETARIAL ACTION.—**

"(1) IN GENERAL.—A local educational agency or a State aggrieved by the Secretary's final decision following an agency proceeding under subsection (a) may, within 60 days after receiving notice of such decision, file with the United States court of appeals for the circuit in which such agency or State is located a petition for review of that action. The clerk of the court shall promptly transmit a copy of the petition to the Secretary. The Secretary shall then file in the court the record of the proceedings on which the Secretary's action was based, as provided in section 2112 of title 28, United States Code.

"(2) FINDINGS OF FACT.—The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence. The Secretary may thereupon make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(3) REVIEW.—The court shall have exclusive jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

**"SEC. 8012. FORGIVENESS OF OVERPAYMENTS.**

"Notwithstanding any other provision of law, the Secretary may forgive the obligation of a local educational agency to repay, in whole or in part, the amount of any overpayment received under this title, or under the Act of September 30, 1950 (Public Law 874, 81st Congress) or the Act of September 23, 1950 (Public Law 815, 81st Congress) (as such Acts were in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994), if the Secretary determines that the overpayment was made as a result of an error made by—

"(1) the Secretary; or

"(2) the local educational agency and repayment of the full amount of the overpayment will result in an undue financial hardship on the

agency and seriously harm the agency's educational program.

**"SEC. 8013. DEFINITIONS.**

"For purposes of this title:

"(1) ARMED FORCES.—The term 'Armed Forces' means the Army, Navy, Air Force, and Marine Corps.

"(2) AVERAGE PER-PUPIL EXPENDITURE.—The term 'average per-pupil expenditure' means—

"(A) the aggregate current expenditures of all local educational agencies in the State; divided by

"(B) the total number of children in average daily attendance for whom such agencies provided free public education.

"(3) CONSTRUCTION.—The term 'construction' means—

"(A) the preparation of drawings and specifications for school facilities;

"(B) erecting, building, acquiring, altering, remodeling, repairing, or extending school facilities;

"(C) inspecting and supervising the construction of school facilities; and

"(D) debt service for such activities.

"(4) CURRENT EXPENDITURES.—The term 'current expenditures' means expenditures for free public education, including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities, but does not include expenditures for community services, capital outlay, and debt service, or any expenditures made from funds awarded under part A of title I and title VI. The determination of whether an expenditure for the replacement of equipment is considered a current expenditure or a capital outlay shall be determined in accordance with generally accepted accounting principles as determined by the State.

"(5) FEDERAL PROPERTY.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) through (F), the term 'Federal property' means real property that is not subject to taxation by any State or any political subdivision of a State due to Federal agreement, law, or policy, and that is—

"(i) owned by the United States or leased by the United States from another entity;

"(ii)(I) held in trust by the United States for individual Indians or Indian tribes;

"(II) held by individual Indians or Indian tribes subject to restrictions on alienation imposed by the United States;

"(III) conveyed at any time under the Alaska Native Claims Settlement Act to a Native individual, Native group, or village or regional corporation;

"(IV) public land owned by the United States that is designated for the sole use and benefit of individual Indians or Indian tribes; or

"(V) used for low-rent housing, as described in paragraph (10), that is located on land described in subclause (I), (II), (III), or (IV) of this clause or on land that met one of those descriptions immediately before such property's use for such housing;

"(iii)(I) part of a low-rent housing project assisted under the United States Housing Act of 1937; or

"(II) used to provide housing for homeless children at closed military installations pursuant to section 501 of the Stewart B. McKinney Homeless Assistance Act; or

"(iv) owned by a foreign government or by an international organization.

"(B) SCHOOLS PROVIDING FLIGHT TRAINING TO MEMBERS OF AIR FORCE.—The term 'Federal property' includes, so long as not subject to taxation by any State or any political subdivision of a State, and whether or not that tax exemption is due to Federal agreement, law, or policy,

any school providing flight training to members of the Air Force under contract with the Air Force at an airport owned by a State or political subdivision of a State.

"(C) NON-FEDERAL EASEMENTS, LEASES, LICENSES, PERMITS, IMPROVEMENTS, AND CERTAIN OTHER REAL PROPERTY.—The term 'Federal property' includes, whether or not subject to taxation by a State or a political subdivision of a State—

"(i) any non-Federal easement, lease, license, permit, or other such interest in Federal property as otherwise described in this paragraph, but not including any non-Federal fee-simple interest;

"(ii) any improvement on Federal property as otherwise described in this paragraph; and

"(iii) real property that, immediately before its sale or transfer to a non-Federal party, was owned by the United States and otherwise qualified as Federal property described in this paragraph, but only for one year beyond the end of the fiscal year of such sale or transfer.

"(D) CERTAIN POSTAL SERVICE PROPERTY AND PIPELINES AND UTILITY LINES.—Notwithstanding any other provision of this paragraph, the term 'Federal property' does not include—

"(i) any real property under the jurisdiction of the United States Postal Service that is used primarily for the provision of postal services; or

"(ii) pipelines and utility lines.

"(E) PROPERTY WITH RESPECT TO WHICH STATE OR LOCAL TAX REVENUES MAY NOT BE EXPENDED, ALLOCATED, OR AVAILABLE FOR FREE PUBLIC EDUCATION.—Notwithstanding any other provision of this paragraph, 'Federal property' does not include any property on which children reside that is otherwise described in this paragraph if—

"(i) no tax revenues of the State or of any political subdivision of the State may be expended for the free public education of children who reside on that Federal property; or

"(ii) no tax revenues of the State are allocated or available for the free public education of such children.

"(F) PROPERTY LOCATED IN THE STATE OF OKLAHOMA OWNED BY INDIAN HOUSING AUTHORITY FOR LOW-INCOME HOUSING.—The term 'Federal property' includes any real property located in the State of Oklahoma that—

"(i) is owned by an Indian housing authority and used for low-income housing (including housing assisted under the mutual help ownership opportunity program under section 202 of the United States Housing Act of 1937); and

"(ii) at any time—

"(I) was designated by treaty as tribal land; or

"(II) satisfied the definition of Federal property under section 403(I)(A) of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994).

"(6) FREE PUBLIC EDUCATION.—The term 'free public education' means education that is provided—

"(A) at public expense, under public supervision and direction, and without tuition charge; and

"(B) as elementary or secondary education, as determined under State law, except that, notwithstanding State law, such term—

"(i) includes preschool education; and

"(ii) does not include any education provided beyond grade 12.

"(7) INDIAN LANDS.—The term 'Indian lands' means any Federal property described in paragraph (5)(A)(ii) or (5)(F).

"(8) LOCAL CONTRIBUTION PERCENTAGE.—

"(A) IN GENERAL.—The term 'local contribution percentage' means the percentage of current expenditures in the State derived from local

and intermediate sources, as reported to and verified by the National Center for Education Statistics.

"(B) HAWAII AND DISTRICT OF COLUMBIA.—Notwithstanding subparagraph (A), the local contribution percentage for Hawaii and for the District of Columbia shall be the average local contribution percentage for all States.

"(9) LOCAL EDUCATIONAL AGENCY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'local educational agency'—

"(i) means a board of education or other legally constituted local school authority having administrative control and direction of free public education in a county, township, independent school district, or other school district; and

"(ii) includes any State agency that directly operates and maintains facilities for providing free public education.

"(B) EXCEPTION.—The term 'local educational agency' does not include any agency or school authority that the Secretary determines on a case-by-case basis—

"(i) was constituted or reconstituted primarily for the purpose of receiving assistance under this title or the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) or increasing the amount of such assistance; or

"(ii) is not constituted or reconstituted for legitimate educational purposes.

"(10) LOW-RENT HOUSING.—The term 'low-rent housing' means housing located on property that is described in paragraph (5)(A)(iii).

"(11) REVENUE DERIVED FROM LOCAL SOURCES.—The term 'revenue derived from local sources' means—

"(A) revenue produced within the boundaries of a local educational agency and available to such agency for such agency's use; or

"(B) funds collected by another governmental unit, but distributed back to a local educational agency in the same proportion as such funds were collected as a local revenue source.

"(12) SCHOOL FACILITIES.—The term 'school facilities' includes—

"(A) classrooms and related facilities; and

"(B) equipment, machinery, and utilities necessary or appropriate for school purposes.

"SEC. 8014. AUTHORIZATION OF APPROPRIATIONS.

"(a) PAYMENTS FOR FEDERAL ACQUISITION OF REAL PROPERTY.—For the purpose of making payments under section 8002, there are authorized to be appropriated \$16,750,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(b) BASIC PAYMENTS; PAYMENTS FOR HEAVILY IMPACTED LOCAL EDUCATIONAL AGENCIES.—For the purpose of making payments under subsections (b) and (f) of section 8003, there are authorized to be appropriated \$775,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years, of which 6 percent shall be available, until expended, for each such fiscal year to carry out section 8003(f).

"(c) PAYMENTS FOR CHILDREN WITH DISABILITIES.—For the purpose of making payments under section 8003(d), there are authorized to be appropriated \$45,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(d) PAYMENTS FOR INCREASES IN MILITARY CHILDREN.—For the purpose of making payments under section 8006, there are authorized to be appropriated \$2,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(e) CONSTRUCTION.—For the purpose of carrying out section 8007, there are authorized to be appropriated \$25,000,000 for fiscal year 1995

and such sums as may be necessary for each of the four succeeding fiscal years.

"(f) FACILITIES MAINTENANCE.—For the purpose of carrying out section 8008, there are authorized to be appropriated \$2,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"TITLE IX—INDIAN, NATIVE HAWAIIAN, AND ALASKA NATIVE EDUCATION

"PART A—INDIAN EDUCATION

"SEC. 9101. FINDINGS.

"The Congress finds that—

"(1) the Federal Government has a special responsibility to ensure that educational programs for all American Indian and Alaska Native children and adults—

"(A) are based on high-quality, internationally competitive content standards and student performance standards and build on Indian culture and the Indian community;

"(B) assist local educational agencies, Indian tribes, and other entities and individuals in providing Indian students the opportunity to achieve such standards; and

"(C) meet the special educational and culturally related academic needs of American Indian and Alaska Native students;

"(2) since the date of enactment of the initial Indian Education Act in 1972, the level of involvement of Indian parents in the planning, development, and implementation of educational programs that affect such parents and their children has increased significantly, and schools should continue to foster such involvement;

"(3) although the number of Indian teachers, administrators, and university professors has increased since 1972, teacher training programs are not recruiting, training, or retaining a sufficient number of Indian individuals as educators to meet the needs of a growing Indian student population in elementary, secondary, vocational, adult, and higher education;

"(4) the dropout rate for Indian students is unacceptably high, for example, 9 percent of Indian students who were eighth graders in 1988 had already dropped out of school by 1990;

"(5) during the period from 1980 to 1990, the percentage of Indian individuals living at or below the poverty level increased from 24 percent to 31 percent, and the readiness of Indian children to learn is hampered by the high incidence of poverty, unemployment, and health problems among Indian children and their families; and

"(6) research related specifically to the education of Indian children and adults is very limited, and much of the research is of poor quality or is focused on limited local or regional issues.

"SEC. 9102. PURPOSE.

"(a) PURPOSE.—It is the purpose of this part to support the efforts of local educational agencies, Indian tribes and organizations, post-secondary institutions, and other entities to meet the special educational and culturally related academic needs of American Indians and Alaska Natives, so that such students can achieve to the same challenging State performance standards expected of all students.

"(b) PROGRAMS.—This part carries out the purpose described in subsection (a) by authorizing programs of direct assistance for—

"(1) meeting the special educational and culturally related academic needs of American Indians and Alaska Natives;

"(2) the education of Indian children and adults;

"(3) the training of Indian persons as educators and counselors, and in other professions serving Indian people; and

"(4) research, evaluation, data collection, and technical assistance.

"Subpart 1—Formula Grants to Local Educational Agencies

"SEC. 9111. PURPOSE.

"It is the purpose of this subpart to support local educational agencies in their efforts to reform elementary and secondary school programs that serve Indian students in order to ensure that such programs—

"(1) are based on challenging State content standards and State student performance standards that are used for all students; and

"(2) are designed to assist Indian students meet those standards and assist the Nation in reaching the National Education Goals.

"SEC. 9112. GRANTS TO LOCAL EDUCATIONAL AGENCIES.

"(a) IN GENERAL.—

"(1) ENROLLMENT REQUIREMENTS.—A local educational agency shall be eligible for a grant under this subpart for any fiscal year if the number of Indian children eligible under section 9116 and who were enrolled in the schools of the agency, and to whom the agency provided free public education, during the preceding fiscal year—

"(A) was at least 10; and

"(B) constituted not less than 25 percent of the total number of individuals enrolled in the schools of such agency.

"(2) EXCLUSION.—The requirement of paragraph (1) shall not apply in Alaska, California, or Oklahoma, or with respect to any local educational agency located on, or in proximity to, a reservation.

"(b) INDIAN TRIBES.—

"(1) IN GENERAL.—If a local educational agency that is eligible for a grant under this subpart does not establish a parent committee under section 9114(c)(4) for such grant, an Indian tribe that represents no less than one-half of the eligible Indian children who are served by such local educational agency may apply for such grant.

"(2) SPECIAL RULE.—The Secretary shall treat each Indian tribe applying for a grant pursuant to paragraph (1) as if such Indian tribe were a local educational agency for purposes of this subpart.

"SEC. 9113. AMOUNT OF GRANTS.

"(a) AMOUNT OF GRANT AWARDS.—

"(1) IN GENERAL.—Except as provided in subsection (b) and paragraph (2), the Secretary shall allocate to each local educational agency which has an approved application under this subpart an amount equal to the product of—

"(A) the number of Indian children who are eligible under section 9116 and served by such agency; and

"(B) the greater of—

"(i) the average per-pupil expenditure of the State in which such agency is located; or

"(ii) 80 percent of the average per-pupil expenditure in the United States.

"(2) REDUCTION.—The Secretary shall reduce the amount of each allocation determined under paragraph (1) in accordance with subsection (e).

"(b) MINIMUM GRANT.—

"(1) IN GENERAL.—Notwithstanding subsection (e) of this section, a local educational agency or an Indian tribe (as authorized under section 9112(b)) that is eligible for a grant under section 9112, and a school that is operated or supported by the Bureau of Indian Affairs that is eligible for a grant under subsection (d), that submits an application that is approved by the Secretary, shall, subject to appropriations, receive a grant under this subpart in an amount that is not less than \$3,000.

"(2) CONSORTIA.—Local educational agencies may form a consortium for the purpose of obtaining grants under this Act.

"(3) INCREASE.—The Secretary may increase the minimum grant under paragraph (1) to not more than \$4,000 for all grantees if the Secretary

determines such increase is necessary to ensure quality programs.

"(c) DEFINITION.—For the purpose of this section, the term 'average per-pupil expenditure of a State' means an amount equal to—

"(1) the sum of the aggregate current expenditures of all the local educational agencies in the State, plus any direct current expenditures by the State for the operation of such agencies, without regard to the sources of funds from which such local or State expenditures were made, during the second fiscal year preceding the fiscal year for which the computation is made; divided by

"(2) the aggregate number of children who were included in average daily attendance for whom such agencies provided free public education during such preceding fiscal year.

"(d) SCHOOLS OPERATED OR SUPPORTED BY THE BUREAU OF INDIAN AFFAIRS.—In addition to the grants awarded under subsection (a), and subject to paragraph (2), the Secretary shall allocate to the Secretary of the Interior an amount equal to the product of—

"(1) the total number of Indian children enrolled in schools that are operated by—

"(A) the Bureau of Indian Affairs; or  
 "(B) an Indian tribe, or an organization controlled or sanctioned by an Indian tribal government, for the children of such tribe under a contract with, or grant from, the Department of the Interior under the Indian Self-Determination Act or the Tribally Controlled Schools Act of 1988 (part B of title V of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988); and

"(2) the greater of—  
 "(A) the average per-pupil expenditure of the State in which the school is located; or  
 "(B) 80 percent of the average per-pupil expenditure in the United States.

"(e) RATABLE REDUCTIONS.—If the sums appropriated for any fiscal year under section 9162(a) are insufficient to pay in full the amounts determined for local educational agencies under subsection (a)(1) and for the Secretary of the Interior under subsection (d), each of those amounts shall be ratably reduced.

#### "SEC. 9114. APPLICATIONS.

"(a) APPLICATION REQUIRED.—Each local educational agency that desires to receive a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

"(b) COMPREHENSIVE PROGRAM REQUIRED.—Each application submitted under subsection (a) shall include a comprehensive program for meeting the needs of Indian children served by the local educational agency, including the language and cultural needs of the children, that—

"(1) provides programs and activities to meet the culturally related academic needs of American Indian and Alaska Native students;

"(2)(A) is consistent with, and promotes the goals in, the State and local improvement plans, either approved or being developed, under title III of the Goals 2000: Educate America Act or, if such plans are not approved or being developed, with the State and local plans under sections 1111 and 1112 of this Act; and

"(B) includes academic content and student performance goals for such children, and benchmarks for attaining such goals, that are based on the challenging State standards adopted under title I for all children;

"(3) explains how Federal, State, and local programs, especially under title I, will meet the needs of such students;

"(4) demonstrates how funds made available under this subpart will be used for activities described in section 9115;

"(5) describes the professional development opportunities that will be provided, as needed, to ensure that—

"(A) teachers and other school professionals who are new to the Indian community are prepared to work with Indian children; and

"(B) all teachers who will be involved in programs assisted under this subpart have been properly trained to carry out such programs; and

"(6) describes how the local educational agency—

"(A) will periodically assess the progress of all Indian children enrolled in the schools of the local educational agency, including Indian children who do not participate in programs assisted under this subpart, in meeting the goals described in paragraph (2);

"(B) will provide the results of each assessment referred to in subparagraph (A) to—

"(i) the committee of parents described in subsection (c)(4); and

"(ii) the community served by the local educational agency; and

"(C) is responding to findings of any previous assessments that are similar to the assessments described in subparagraph (A).

"(c) ASSURANCES.—Each application submitted under subsection (a) shall include assurances that—

"(1) the local educational agency will use funds received under this subpart only to supplement the level of funds that, in the absence of the Federal funds made available under this subpart, such agency would make available for the education of Indian children, and not to supplant such funds;

"(2) the local educational agency will submit such reports to the Secretary, in such form and containing such information, as the Secretary may require to—

"(A) carry out the functions of the Secretary under this subpart; and

"(B) determine the extent to which funds provided to the local educational agency under this subpart are effective in improving the educational achievement of Indian students served by such agency;

"(3) the program for which assistance is sought—

"(A) is based on a local assessment and prioritization of the special educational and culturally related academic needs of the American Indian and Alaska Native students for whom the local educational agency is providing an education;

"(B) will use the best available talents and resources, including individuals from the Indian community; and

"(C) was developed by such agency in open consultation with parents of Indian children and teachers, and, if appropriate, Indian students from secondary schools, including public hearings held by such agency to provide the individuals described in this subparagraph a full opportunity to understand the program and to offer recommendations regarding the program; and

"(4) the local educational agency developed the program with the participation and written approval of a committee—

"(A) that is composed of, and selected by—

"(i) parents of Indian children in the local educational agency's schools and teachers; and

"(ii) if appropriate, Indian students attending secondary schools;

"(B) the membership of which is at least more than one-half parents of Indian children;

"(C) that sets forth such policies and procedures, including policies and procedures relating to the hiring of personnel, as will ensure that the program for which assistance is sought will be operated and evaluated in consultation with, and with the involvement of, parents of the children, and representatives of the area, to be served;

"(D) with respect to an application describing a schoolwide program in accordance with section 9115(c), has—

"(i) reviewed in a timely fashion the program; and

"(ii) determined that the program will not diminish the availability of culturally related activities for American Indians and Alaskan Native students; and

"(E) has adopted reasonable bylaws for the conduct of the activities of the committee and abides by such bylaws.

#### "SEC. 9115. AUTHORIZED SERVICES AND ACTIVITIES.

"(a) GENERAL REQUIREMENTS.—Each local educational agency that receives a grant under this subpart shall use the grant funds, in a manner consistent with the purpose specified in section 9111, for services and activities that—

"(1) are designed to carry out the comprehensive plan of the local educational agency for Indian students, and described in the application of the local educational agency submitted to the Secretary under section 9114(b);

"(2) are designed with special regard for the language and cultural needs of the Indian students; and

"(3) supplement and enrich the regular school program of such agency.

"(b) PARTICULAR ACTIVITIES.—The services and activities referred to in subsection (a) may include—

"(1) culturally related activities that support the program described in the application submitted by the local educational agency;

"(2) early childhood and family programs that emphasize school readiness;

"(3) enrichment programs that focus on problem-solving and cognitive skills development and directly support the attainment of challenging State content standards and State student performance standards;

"(4) integrated educational services in combination with other programs that meet the needs of Indian children and their families;

"(5) school-to-work transition activities to enable Indian students to participate in programs such as the programs supported by the School-to-Work Opportunities Act of 1994 and the Carl D. Perkins Vocational and Applied Technology Education Act, including programs for tech-prep, mentoring, and apprenticeship;

"(6) activities to educate individuals concerning substance abuse and to prevent substance abuse; and

"(7) the acquisition of equipment, but only if the acquisition of the equipment is essential to meet the purpose described in section 9111.

"(c) SCHOOLWIDE PROGRAMS.—Notwithstanding any other provision of law, a local educational agency may use funds made available to such agency under this subpart to support a schoolwide program under section 1114 if—

"(1) the committee composed of parents established pursuant to section 9114(c)(4) approves the use of the funds for the schoolwide program; and

"(2) the schoolwide program is consistent with the purpose described in section 9111.

#### "SEC. 9116. STUDENT ELIGIBILITY FORMS.

"(a) IN GENERAL.—The Secretary shall require that, as part of an application for a grant under this subpart, each applicant shall maintain a file, with respect to each Indian child for whom the local educational agency provides a free public education, that contains a form that sets forth information establishing the status of the child as an Indian child eligible for assistance under this subpart and that otherwise meets the requirements of subsection (b).

"(b) FORMS.—

"(1) IN GENERAL.—The form described in subsection (a) shall include—

"(A) either—

"(i)(I) the name of the tribe or band of Indians (as defined in section 9161(4)) with respect to which the child claims membership;

"(II) the enrollment number establishing the membership of the child (if readily available); and

"(III) the name and address of the organization that maintains updated and accurate membership data for such tribe or band of Indians; or

"(ii) if the child is not a member of a tribe or band of Indians, the name, the enrollment number (if readily available), and the organization (and address thereof) responsible for maintaining updated and accurate membership rolls of any parent or grandparent of the child from whom the child claims eligibility;

"(B) a statement of whether the tribe or band of Indians with respect to which the child, parent or grandparent of the child claims membership is federally recognized;

"(C) the name and address of the parent or legal guardian of the child;

"(D) a signature of the parent or legal guardian of the child that verifies the accuracy of the information supplied; and

"(E) any other information that the Secretary considers necessary to provide an accurate program profile.

"(2) MINIMUM INFORMATION.—In order for a child to be eligible to be counted for the purpose of computing the amount of a grant award made under section 9113, an eligibility form prepared pursuant to this section for a child shall include—

"(A) the name of the child;

"(B) the name of the tribe or band of Indians (as defined in section 9161(4)) with respect to which the child claims eligibility; and

"(C) the dated signature of the parent or guardian of the child.

"(3) FAILURE.—The failure of an applicant to furnish any information described in this subsection other than the information described in paragraph (2) with respect to any child shall have no bearing on the determination of whether the child is an eligible Indian child for the purposes of determining the amount of a grant award made under section 9113.

"(c) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to affect a definition contained in section 9161.

"(d) FORMS AND STANDARDS OF PROOF.—The forms and the standards of proof (including the standard of good faith compliance) that were in use during the 1985–1986 academic year to establish the eligibility of a child for entitlement under the Indian Elementary and Secondary School Assistance Act shall be the forms and standards of proof used—

"(1) to establish such eligibility; and

"(2) to meet the requirements of subsection (a).

"(e) DOCUMENTATION.—For purposes of determining whether a child is eligible to be counted for the purpose of computing the amount of a grant under section 9113, the membership of the child, or any parent or grandparent of the child, in a tribe or band of Indians may be established by proof other than an enrollment number, notwithstanding the availability of an enrollment number for a member of such tribe or band. Nothing in subsection (b) shall be construed to require the furnishing of an enrollment number.

"(f) MONITORING AND EVALUATION REVIEW.—

"(1) IN GENERAL.—(A) For each fiscal year, in order to provide such information as is necessary to carry out the responsibility of the Secretary to provide technical assistance under this subpart, the Secretary shall conduct a monitoring and evaluation review of a sampling of the recipients of grants under this subpart. The sampling conducted under this subparagraph shall take into account size of the local educational agency and the geographic location of such agency.

"(B) A local educational agency may not be held liable to the United States or be subject to any penalty, by reason of the findings of an audit that relates to the date of completion, or the date of submission, of any forms used to establish, before April 28, 1988, the eligibility of a child for entitlement under the Indian Elementary and Secondary School Assistance Act.

"(2) FALSE INFORMATION.—Any local educational agency that provides false information in an application for a grant under this subpart shall—

"(A) be ineligible to apply for any other grant under this subpart; and

"(B) be liable to the United States for any funds that have not been expended.

"(3) EXCLUDED CHILDREN.—A student who provides false information for the form required under subsection (d) shall not be counted for the purpose of computing the amount of a grant under section 9113.

"(g) DISTRIBUTION.—For the purposes of the distribution of funds under this subpart to schools that receive funding from the Bureau of Indian Affairs pursuant to—

"(1) section 1130 of the Education Amendments of 1978; and

"(2) the Act of April 16, 1934 (48 Stat. 596, chapter 147),

the Secretary shall, in lieu of meeting the requirements of this section for counting Indian children, use a count of the number of students in such schools certified by the Bureau of Indian Affairs.

"SEC. 9117. PAYMENTS.

"(a) IN GENERAL.—Subject to subsections (b) and (c), the Secretary shall pay to each local educational agency that submits an application that is approved by the Secretary under this subpart the amount determined under section 9113. The Secretary shall notify the local educational agency of the amount of the payment not later than June 1 of the year for which the Secretary makes the payment.

"(b) PAYMENTS TAKEN INTO ACCOUNT BY THE STATE.—The Secretary may not make a grant under this subpart to a local educational agency for a fiscal year if, for such fiscal year, the State in which the local educational agency is located takes into consideration payments made under this subpart (or under subpart 1 of the Indian Education Act of 1988) in determining the eligibility of the local educational agency for State aid, or the amount of the State aid, with respect to the free public education of children during such fiscal year or the preceding fiscal year.

"(c) REDUCTION OF PAYMENT FOR FAILURE TO MAINTAIN FISCAL EFFORT.—

"(1) IN GENERAL.—The Secretary may not pay a local educational agency the full amount of a grant award determined under section 9113 for any fiscal year unless the State educational agency notifies the Secretary, and the Secretary determines, that with respect to the provision of free public education by the local educational agency for the preceding fiscal year, that the combined fiscal effort of the local educational agency and the State, computed on either a per student or aggregate expenditure basis was not less than 90 percent of the amount of the combined fiscal effort, computed on the same basis, for the second preceding fiscal year.

"(2) FAILURE.—If, for any fiscal year, the Secretary determines that a local educational agency failed to maintain the fiscal effort of such agency at the level specified in paragraph (1), the Secretary shall—

"(A) reduce the amount of the grant that would otherwise be made to such agency under this subpart in the exact proportion of such agency's failure to maintain its fiscal effort at such level; and

"(B) not use the reduced amount of the agency's expenditures for the preceding year to de-

termine compliance with paragraph (1) for any succeeding fiscal year, but shall use the amount of expenditures that would have been required to comply with paragraph (1).

"(3) WAIVER.—(A) The Secretary may waive the requirement of paragraph (1), for not more than one year at a time, if the Secretary determines that the failure to comply with such requirement is due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the agency's financial resources.

"(B) The Secretary shall not use the reduced amount of such agency's expenditures for the fiscal year preceding the fiscal year for which a waiver is granted to determine compliance with paragraph (1) for any succeeding fiscal year, but shall use the amount of expenditures that would have been required to comply with paragraph (1) in the absence of the waiver.

"(d) REALLOCATIONS.—The Secretary may reallocate, in a manner that the Secretary determines will best carry out the purpose of this subpart, any amounts that—

"(1) based on estimates made by local educational agencies or other information, the Secretary determines will not be needed by such agencies to carry out approved programs under this subpart; or

"(2) otherwise become available for reallocation under this subpart.

"SEC. 9118. STATE EDUCATIONAL AGENCY REVIEW.

"(a) APPLICATION.—Each entity desiring assistance under this subpart shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require except that this subsection shall not apply to Bureau-funded schools.

"(b) SPECIAL RULE.—Before submitting an application under subsection (a) to the Secretary, the entity shall submit its application to the State educational agency. The State educational agency may comment on such application, however if such agency comments on such application such agency shall comment on all applications submitted by entities within the State and shall provide such comments to the appropriate local educational agency, which local educational agency shall be given an opportunity to respond to such comments.

"Subpart 2—Special Programs and Projects To Improve Educational Opportunities for Indian Children

"SEC. 9121. IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN.

"(a) PURPOSE.—

"(1) IN GENERAL.—It is the purpose of this section to support projects to develop, test, and demonstrate the effectiveness of services and programs to improve educational opportunities and achievement of Indian children.

"(2) COORDINATION.—The Secretary shall take such actions as are necessary to achieve the coordination of activities assisted under this subpart with—

"(A) other programs funded under this Act; and

"(B) other Federal programs operated for the benefit of American Indian and Alaska Native children.

"(b) ELIGIBLE ENTITIES.—For the purpose of this section, the term 'eligible entity' means a State educational agency, local educational agency, Indian tribe, Indian organization, federally supported elementary and secondary school for Indian students, Indian institution, including an Indian institutions of higher education, or a consortium of such institutions.

"(c) GRANTS AUTHORIZED.—

"(1) IN GENERAL.—The Secretary shall award grants to eligible entities to enable such entities

to carry out activities that meet the purpose specified in subsection (a)(1), including—

“(A) innovative programs related to the educational needs of educationally deprived children;

“(B) educational services that are not available to such children in sufficient quantity or quality, including remedial instruction, to raise the achievement of Indian children in one or more of the core academic subjects of English, mathematics, science, foreign languages, art, history, and geography;

“(C) bilingual and bicultural programs and projects;

“(D) special health and nutrition services, and other related activities, that address the special health, social, and psychological problems of Indian children;

“(E) special compensatory and other programs and projects designed to assist and encourage Indian children to enter, remain in, or reenter school, and to increase the rate of secondary school graduation;

“(F) comprehensive guidance, counseling, and testing services;

“(G) early childhood and kindergarten programs, including family-based preschool programs that emphasize school readiness and parental skills, and the provision of services to Indian children with disabilities;

“(H) partnership projects between local educational agencies and institutions of higher education that allow secondary school students to enroll in courses at the postsecondary level to aid such students in the transition from secondary school to postsecondary education;

“(I) partnership projects between schools and local businesses for school-to-work transition programs designed to provide Indian youth with the knowledge and skills the youth need to make an effective transition from school to a first job in a high-skill, high-wage career;

“(J) programs designed to encourage and assist Indian students to work toward, and gain entrance into, an institution of higher education; or

“(K) other services that meet the purpose described in subsection (a)(1).

“(2) **PRESERVICE OR INSERVICE TRAINING.**—Preservice or inservice training of professional and paraprofessional personnel may be a part of any program assisted under this section.

“(d) **GRANT REQUIREMENTS AND APPLICATIONS.**—

“(1) **GRANT REQUIREMENTS.**—(A) The Secretary may make multiyear grants under this section for the planning, development, pilot operation, or demonstration of any activity described in subsection (c) for a period not to exceed 5 years.

“(B) In making multiyear grants under this section, the Secretary shall give priority to applications that present a plan for combining two or more of the activities described in subsection (c) over a period of more than 1 year.

“(C) The Secretary shall make a grant payment to an eligible entity after the initial year of the multiyear grant only if the Secretary determines that the eligible entity has made substantial progress in carrying out the activities assisted under the grant in accordance with the application submitted under paragraph (2) and any subsequent modifications to such application.

“(D)(i) In addition to awarding the multiyear grants described in subparagraph (A), the Secretary may award grants to eligible entities for the dissemination of exemplary materials or programs assisted under this section.

“(ii) The Secretary may award a dissemination grant under this subparagraph if, prior to awarding the grant, the Secretary determines that the material or program to be disseminated has been adequately reviewed and has a demonstrated—

“(1) educational merit; and

“(II) the ability to be replicated.

“(2) **APPLICATION.**—(A) Any eligible entity that desires to receive a grant under this subsection shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

“(B) Each application submitted to the Secretary under subparagraph (A) shall contain—

“(i) a description of how parents of Indian children and representatives of Indian tribes have been, and will be, involved in developing and implementing the activities for which assistance is sought;

“(ii) assurances that the applicant will participate, at the request of the Secretary, in any national evaluation of activities assisted under this section; and

“(iii) such other assurances and information as the Secretary may reasonably require.

“**SEC. 9122. PROFESSIONAL DEVELOPMENT.**

“(a) **PURPOSES.**—The purposes of this section are—

“(1) to increase the number of qualified Indian individuals in professions that serve Indian people;

“(2) to provide training to qualified Indian individuals to enable such individuals to become teachers, administrators, teacher aides, social workers, and ancillary educational personnel; and

“(3) to improve the skills of qualified Indian individuals who serve in the capacities described in paragraph (2).

“(b) **ELIGIBLE ENTITIES.**—For the purpose of this section, the term ‘eligible entity’ means—

“(1) an institution of higher education, including an Indian institution of higher education;

“(2) a State or local educational agency, in consortium with an institutions of higher education; and

“(3) an Indian tribe or organization, in consortium with an institution of higher education.

“(c) **PROGRAM AUTHORIZED.**—The Secretary is authorized to award grants to eligible entities having applications approved under this section to enable such entities to carry out the activities described in subsection (d).

“(d) **AUTHORIZED ACTIVITIES.**—

“(1) **IN GENERAL.**—Grant funds under this section shall be used to provide support and training for Indian individuals in a manner consistent with the purposes of this section. Such activities may include but are not limited to, continuing programs, symposia, workshops, conferences, and direct financial support.

“(2) **SPECIAL RULES.**—(A) For education personnel, the training received pursuant to a grant under this section may be inservice or preservice training.

“(B) For individuals who are being trained to enter any field other than education, the training received pursuant to a grant under this section shall be in a program that results in a graduate degree.

“(e) **APPLICATION.**—

“(1) **IN GENERAL.**—Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner and accompanied by such information, as the Secretary may reasonably require.

“(2) **PREFERENCE.**—In awarding grants under this section, the Secretary shall give preference to applications describing programs that train Indian individuals.

“(f) **SPECIAL RULE.**—In making grants under this section, the Secretary—

“(1) shall consider the prior performance of the eligible entity; and

“(2) may not limit eligibility to receive a grant under this section on the basis of—

“(A) the number of previous grants the Secretary has awarded such entity; or

“(B) the length of any period during which such entity received such grants.

“(g) **GRANT PERIOD.**—Each grant under this section shall be awarded for a program of not more than 5 years.

“(h) **SERVICE OBLIGATION.**—

“(1) **IN GENERAL.**—The Secretary shall require, by regulation, that an individual who receives training pursuant to a grant made under this section—

“(A) perform work—

“(i) related to the training received under this section; and

“(ii) that benefits Indian people; or

“(B) repay all or a prorated part of the assistance received.

“(2) **REPORTING.**—The Secretary shall establish, by regulation, a reporting procedure under which a grant recipient under this section shall, not later than 12 months after the date of completion of the training, and periodically thereafter, provide information concerning the compliance of such recipient with the work requirement under paragraph (1).

“**SEC. 9123. FELLOWSHIPS FOR INDIAN STUDENTS.**

“(a) **FELLOWSHIPS.**—

“(1) **AUTHORITY.**—The Secretary is authorized to award fellowships to Indian students to enable such students to study in graduate and professional programs at institutions of higher education.

“(2) **REQUIREMENTS.**—The fellowships described in paragraph (1) shall be awarded to Indian students to enable such students to pursue a course of study—

“(A) of not more than 4 academic years; and

“(B) that leads—

“(i) toward a postbaccalaureate degree in medicine, clinical psychology, psychology, law, education, and related fields; or

“(ii) to an undergraduate or graduate degree in engineering, business administration, natural resources, and related fields.

“(b) **STIPENDS.**—The Secretary shall pay to Indian students awarded fellowships under subsection (a) such stipends (including allowances for subsistence of such students and dependents of such students) as the Secretary determines to be consistent with prevailing practices under comparable federally supported programs.

“(c) **PAYMENTS TO INSTITUTIONS IN LIEU OF TUITION.**—The Secretary shall pay to the institution of higher education at which a fellowship recipient is pursuing a course of study, in lieu of tuition charged such recipient, such amounts as the Secretary may determine to be necessary to cover the cost of education provided such recipient.

“(d) **SPECIAL RULES.**—

“(1) **IN GENERAL.**—If a fellowship awarded under subsection (a) is vacated prior to the end of the period for which the fellowship is awarded, the Secretary may award an additional fellowship for the unexpired portion of the period of the fellowship.

“(2) **WRITTEN NOTICE.**—Not later than 45 days before the commencement of an academic term, the Secretary shall provide to each individual who is awarded a fellowship under subsection (a) for such academic term written notice of—

“(A) the amount of the fellowship; and

“(B) any stipends or other payments that will be made under this section to, or for the benefit of, the individual for the academic term.

“(3) **PRIORITY.**—Not more than 10 percent of the fellowships awarded under subsection (a) shall be awarded, on a priority basis, to persons receiving training in guidance counseling with a speciality in the area of alcohol and substance abuse counseling and education.

“(e) **SERVICE OBLIGATION.**—

“(1) **IN GENERAL.**—The Secretary shall require, by regulation, that an individual who receives financial assistance under this section—

"(A) perform work—  
 "(i) related to the training for which the individual receives assistance under this section; and

"(ii) that benefits Indian people; or  
 "(B) repay all or a prorated portion of such assistance.

"(2) REPORTING PROCEDURE.—The Secretary shall establish, by regulation, a reporting procedure under which the recipient of training assistance under this section, not later than 12 months after the date of completion of the training and periodically thereafter, shall provide information concerning the compliance of such recipient with the work requirement under paragraph (1).

"(f) ADMINISTRATION OF FELLOWSHIPS.—The Secretary may administer the fellowships authorized under this section through a grant to, or contract or cooperative agreement with, an Indian organization with demonstrated qualifications to administer all facets of the program assisted under this section.

**"SEC. 9124. GIFTED AND TALENTED.**

"(a) PROGRAM AUTHORIZED.—The Secretary is authorized to—

"(1) establish two centers for gifted and talented Indian students at tribally controlled community colleges in accordance with this section; and

"(2) support demonstration projects described in subsection (c).

"(b) ELIGIBLE ENTITIES.—The Secretary shall make grants to, or enter into contracts, for the activities described in subsection (a), with—

"(1) two tribally controlled community colleges that—

"(A) are eligible for funding under the Tribally Controlled Community College Assistance Act of 1978; and

"(B) are fully accredited; or

"(2) if the Secretary does not receive applications that the Secretary determines to be approvable from two colleges that meet the requirements of paragraph (1), the American Indian Higher Education Consortium.

"(c) USE OF FUNDS.—

"(1) IN GENERAL.—The grants made, or contracts entered into, by the Secretary under subsection (a) shall be used for—

"(A) the establishment of centers described in subsection (a); and

"(B) carrying out demonstration projects described to—

"(i) address the special needs of Indian students in elementary and secondary schools who are gifted and talented; and

"(ii) provide such support services to the families of the students described in clause (i) as are needed to enable such students to benefit from the projects.

"(2) SUBCONTRACTS.—Each recipient of a grant or contract under subsection (a) may enter into a contract with any other entity, including the Children's Television Workshop, to carry out the demonstration project under this subsection.

"(3) DEMONSTRATION PROJECTS.—Demonstration projects assisted under subsection (a) may include—

"(A) the identification of the special needs of gifted and talented Indian students, particularly at the elementary school level, giving attention to—

"(i) the emotional and psychosocial needs of such students; and

"(ii) providing such support services to the families of such students as are needed to enable such students to benefit from the project;

"(B) the conduct of educational, psychosocial, and developmental activities that the Secretary determines holds a reasonable promise of resulting in substantial progress toward meeting the educational needs of such gifted and talented children, including but not limited to—

"(i) demonstrating and exploring the use of Indian languages and exposure to Indian cultural traditions; and

"(ii) mentoring and apprenticeship programs;

"(C) the provision of technical assistance and the coordination of activities at schools that receive grants under subsection (d) with respect to the activities assisted under such grants, the evaluation of programs assisted under such grants, or the dissemination of such evaluations;

"(D) the use of public television in meeting the special educational needs of such gifted and talented children;

"(E) leadership programs designed to replicate programs for such children throughout the United States, including disseminating information derived from the demonstration projects conducted under subsection (a); and

"(F) appropriate research, evaluation, and related activities pertaining to the needs of such children and to the provision of such support services to the families of such children that are needed to enable such children to benefit from the project.

"(4) APPLICATION.—Each entity desiring a grant under subsection (a) shall submit an application to the Secretary at such time and in such manner as the Secretary may prescribe.

"(d) ADDITIONAL GRANTS.—

"(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, shall award 5 grants to schools funded by the Bureau of Indian Affairs (hereafter in this section referred to as 'Bureau schools') for program research and development and the development and dissemination of curriculum and teacher training material, regarding—

"(A) gifted and talented students;

"(B) college preparatory studies (including programs for Indian students with an interest in pursuing teaching careers);

"(C) students with special culturally related academic needs, including students with social, lingual, and cultural needs; or

"(D) mathematics and science education.

"(2) APPLICATIONS.—Each Bureau school desiring a grant to conduct one or more of the activities described in paragraph (1) shall submit an application to the Secretary in such form and at such time as the Secretary may prescribe.

"(3) SPECIAL RULE.—Each application described in paragraph (2) shall be developed, and each grant under this subsection shall be administered, jointly by the supervisor of the Bureau school and the local educational agency serving such school.

"(4) REQUIREMENTS.—In awarding grants under paragraph (1), the Secretary shall achieve a mixture of the programs described in paragraph (1) that ensures that Indian students at all grade levels and in all geographic areas of the United States are able to participate in a program assisted under this subsection.

"(5) GRANT PERIOD.—Subject to the availability of appropriations, grants under paragraph (1) shall be awarded for a 3-year period and may be renewed by the Secretary for additional 3-year periods if the Secretary determines that the performance of the grant recipient has been satisfactory.

"(6) DISSEMINATION.—(A) The dissemination of any materials developed from activities assisted under paragraph (1) shall be carried out in cooperation with entities that receive funds pursuant to subsection (b).

"(B) The Secretary shall report to the Secretary of the Interior and to the Congress any results from activities described in paragraph (3)(B).

"(7) EVALUATION COSTS.—(A) The costs of evaluating any activities assisted under paragraph (1) shall be divided between the Bureau schools conducting such activities and the re-

ipients of grants or contracts under subsection (b) who conduct demonstration projects under such subsection.

"(B) If no funds are provided under subsection (b) for—

"(i) the evaluation of activities assisted under paragraph (1);

"(ii) technical assistance and coordination with respect to such activities; or

"(iii) the dissemination of the evaluations referred to in clause (i),

then the Secretary shall make such grants, or enter into such contracts, as are necessary to provide for the evaluations, technical assistance, and coordination of such activities, and the dissemination of the evaluations.

"(e) INFORMATION NETWORK.—The Secretary shall encourage each recipient of a grant or contract under this section to work cooperatively as part of a national network to ensure that the information developed by the grant or contract recipient is readily available to the entire educational community.

**"SEC. 9125. GRANTS TO TRIBES FOR EDUCATION ADMINISTRATIVE PLANNING AND DEVELOPMENT.**

"(a) IN GENERAL.—The Secretary may make grants to Indian tribes, and tribal organizations approved by Indian tribes, to plan and develop a centralized tribal administrative entity to—

"(1) coordinate all education programs operated by the tribe or within the territorial jurisdiction of the tribe;

"(2) develop education codes for schools within the territorial jurisdiction of the tribe;

"(3) provide support services and technical assistance to schools serving children of the tribe; and

"(4) perform child-find screening services for the preschool-aged children of the tribe to—

"(A) ensure placement in appropriate educational facilities; and

"(B) coordinate the provision of any needed special services for conditions such as disabilities and English language skill deficiencies.

"(b) PERIOD OF GRANT.—Each grant under this section may be awarded for a period of not more than 3 years, except that such grant may be renewed upon the termination of the initial period of the grant if the grant recipient demonstrates to the satisfaction of the Secretary that renewing the grant for an additional 3-year period is necessary to carry out the objectives of the grant described in subsection (c)(2)(A).

"(c) APPLICATION FOR GRANT.—

"(1) IN GENERAL.—Each Indian tribe and tribal organization desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, containing such information, and consistent with such criteria, as the Secretary may prescribe in regulations.

"(2) CONTENTS.—Each application described in paragraph (1) shall contain—

"(A) a statement describing the activities to be conducted, and the objectives to be achieved, under the grant; and

"(B) a description of the method to be used for evaluating the effectiveness of the activities for which assistance is sought and determining whether such objectives are achieved.

"(3) APPROVAL.—The Secretary may approve an application submitted by a tribe or tribal organization pursuant to this section only if the Secretary is satisfied that such application, including any documentation submitted with the application—

"(A) demonstrates that the applicant has consulted with other education entities, if any, within the territorial jurisdiction of the applicant who will be affected by the activities to be conducted under the grant;

"(B) provides for consultation with such other education entities in the operation and evaluation of the activities conducted under the grant; and

"(C) demonstrates that there will be adequate resources provided under this section or from other sources to complete the activities for which assistance is sought, except that the availability of such other resources shall not be a basis for disapproval of such application.

"(d) RESTRICTION.—A tribe may not receive funds under this section if such tribe receives funds under section 1144 of the Indian Education Amendments of 1978.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Education \$3,000,000 for each of the fiscal years 1995 through 1999 to carry out this section.

**"Subpart 3—Special Programs Relating to Adult Education for Indians**

**"SEC. 9131. IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR ADULT INDIANS.**

"(a) IN GENERAL.—The Secretary shall award grants to State and local educational agencies, and to Indian tribes, institutions, and organizations—

"(1) to support planning, pilot, and demonstration projects that are designed to test and demonstrate the effectiveness of programs for improving employment and educational opportunities for adult Indians;

"(2) to assist in the establishment and operation of programs that are designed to stimulate—

"(A) basic literacy opportunities for all nonliterate Indian adults; and

"(B) the provision of opportunities to all Indian adults to qualify for a secondary school diploma, or its recognized equivalent, in the shortest period of time feasible;

"(3) to support a major research and development program to develop more innovative and effective techniques for achieving literacy and secondary school equivalency for Indians;

"(4) to provide for basic surveys and evaluations to define accurately the extent of the problems of illiteracy and lack of secondary school completion among Indians; and

"(5) to encourage the dissemination of information and materials relating to, and the evaluation of, the effectiveness of education programs that may offer educational opportunities to Indian adults.

"(b) EDUCATIONAL SERVICES.—The Secretary may make grants to Indian tribes, institutions, and organizations to develop and establish educational services and programs specifically designed to improve educational opportunities for Indian adults.

"(c) INFORMATION AND EVALUATION.—The Secretary may make grants to, and enter into contracts with, public agencies and institutions and Indian tribes, institutions, and organizations, for—

"(1) the dissemination of information concerning educational programs, services, and resources available to Indian adults, including evaluations of the programs, services, and resources; and

"(2) the evaluation of federally assisted programs in which Indian adults may participate to determine the effectiveness of the programs in achieving the purposes of the programs with respect to Indian adults.

**"(d) APPLICATIONS.—**

"(1) IN GENERAL.—Each entity desiring a grant under this section shall submit to the Secretary an application at such time, in such manner, containing such information, and consistent with such criteria, as the Secretary may prescribe in regulations.

"(2) CONTENTS.—Each application described in paragraph (1) shall contain—

"(A) a statement describing the activities to be conducted, and the objectives to be achieved, under the grant; and

"(B) a description of the method to be used for evaluating the effectiveness of the activities for

which assistance is sought and determining whether the objectives of the grant are achieved.

"(3) APPROVAL.—The Secretary shall not approve an application described in paragraph (1) unless the Secretary determines that such application, including any documentation submitted with the application, indicates—

"(A) there has been adequate participation, by the individuals to be served and appropriate tribal communities, in the planning and development of the activities to be assisted; and

"(B) the individuals and tribal communities referred to in subparagraph (A) will participate in the operation and evaluation of the activities to be assisted.

"(4) PRIORITY.—In approving applications under paragraph (1), the Secretary shall give priority to applications from Indian educational agencies, organizations, and institutions.

**"Subpart 4—National Research Activities**

**"SEC. 9141. NATIONAL ACTIVITIES.**

"(a) AUTHORIZED ACTIVITIES.—The Secretary may use funds made available under section 9162(b) for each fiscal year to—

"(1) conduct research related to effective approaches for the education of Indian children and adults;

"(2) evaluate federally assisted education programs from which Indian children and adults may benefit;

"(3) collect and analyze data on the educational status and needs of Indians; and

"(4) carry out other activities that are consistent with the purpose of this part.

"(b) ELIGIBILITY.—The Secretary may carry out any of the activities described in subsection (a) directly or through grants to, or contracts or cooperative agreements with Indian tribes, Indian organizations, State educational agencies, local educational agencies, institutions of higher education, including Indian institutions of higher education, and other public and private agencies and institutions.

"(c) COORDINATION.—Research activities supported under this section—

"(1) shall be carried out in consultation with the Office of Educational Research and Improvement to assure that such activities are coordinated with and enhance the research and development activities supported by the Office; and

"(2) may include collaborative research activities which are jointly funded and carried out by the Office of Indian Education and the Office of Educational Research and Improvement.

**"Subpart 5—Federal Administration**

**"SEC. 9151. NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION.**

"(a) MEMBERSHIP.—There is established a National Advisory Council on Indian Education (hereafter in this section referred to as the 'Council'), which shall—

"(1) consist of 15 Indian members, who shall be appointed by the President from lists of nominees furnished, from time to time, by Indian tribes and organizations; and

"(2) represent different geographic areas of the United States.

"(b) DUTIES.—The Council shall—

"(1) advise the Secretary concerning the funding and administration (including the development of regulations and administrative policies and practices) of any program, including any program established under this part—

"(A) with respect to which the Secretary has jurisdiction; and

"(B)(i) that includes Indian children or adults as participants; or

"(ii) that may benefit Indian children or adults;

"(2) make recommendations to the Secretary for filling the position of Director of Indian Education whenever a vacancy occurs; and

"(3) submit to the Congress, not later than June 30 of each year, a report on the activities of the Council, including—

"(A) any recommendations that the Council considers appropriate for the improvement of Federal education programs that include Indian children or adults as participants, or that may benefit Indian children or adults; and

"(B) recommendations concerning the funding of any program described in subparagraph (A).

**"SEC. 9152. PEER REVIEW.**

"The Secretary may use a peer review process to review applications submitted to the Secretary under subpart 2, 3, or 4.

**"SEC. 9153. PREFERENCE FOR INDIAN APPLICANTS.**

"In making grants under subpart 2, 3, or 4, the Secretary shall give a preference to Indian tribes, organizations, and institutions of higher education under any program with respect to which Indian tribes, organizations, and institutions are eligible to apply for grants.

**"SEC. 9154. MINIMUM GRANT CRITERIA.**

"The Secretary may not approve an application for a grant under subpart 2 or 3 unless the application is for a grant that is—

"(1) of sufficient size, scope, and quality to achieve the purpose or objectives of such grant; and

"(2) based on relevant research findings.

**"Subpart 6—Definitions; Authorizations of Appropriations**

**"SEC. 9161. DEFINITIONS.**

"As used in this part:

"(1) ADULT.—The term 'adult' means an individual who—

"(A) has attained the age of 16 years; or

"(B) has attained an age that is greater than the age of compulsory school attendance under an applicable State law.

"(2) ADULT EDUCATION.—The term 'adult education' has the meaning given such term in section 312(2) of the Adult Education Act.

"(3) FREE PUBLIC EDUCATION.—The term 'free public education' means education that is—

"(A) provided at public expense, under public supervision and direction, and without tuition charge; and

"(B) provided as elementary or secondary education in the applicable State or to preschool children.

"(4) INDIAN.—The term 'Indian' means an individual who is—

"(A) a member of an Indian tribe or band, as membership is defined by the tribe or band, including—

"(i) any tribe or band terminated since 1940; and

"(ii) any tribe or band recognized by the State in which the tribe or band resides;

"(B) a descendant, in the first or second degree, of an individual described in subparagraph (A);

"(C) considered by the Secretary of the Interior to be an Indian for any purpose;

"(D) an Eskimo, Aleut, or other Alaska Native; or

"(E) a member of an organized Indian group that received a grant under the Indian Education Act of 1988 as it was in effect the day preceding the date of enactment of the Act entitled the 'Improving America's Schools Act of 1994'.

**"SEC. 9162. AUTHORIZATIONS OF APPROPRIATIONS.**

"(a) SUBPART 1.—For the purpose of carrying out subpart 1 of this part, there are authorized to be appropriated to the Department of Education \$61,300,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(b) SUBPARTS 2 THROUGH 4.—For the purpose of carrying out subparts 2, 3, and 4 of this part,

there are authorized to be appropriated to the Department of Education \$26,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(c) SUBPART 5.—For the purpose of carrying out subpart 5 of this part, there are authorized to be appropriated to the Department of Education \$3,775,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

#### "PART B—NATIVE HAWAIIANS

##### "SEC. 9201. SHORT TITLE.

"This part may be cited as the 'Native Hawaiian Education Act'.

##### "SEC. 9202. FINDINGS.

"The Congress finds and declares as follows:  
 "(1) Native Hawaiians are a distinct and unique indigenous people with a historical continuity to the original inhabitants of the Hawaiian archipelago, whose society was organized as a nation and internationally recognized as such by the United States, Britain, France and Japan, as evidenced by treaties governing friendship, commerce, and navigation.

"(2) At the time of the arrival of the first non-indigenous people in Hawai'i in 1778, the Native Hawaiian people lived in a highly organized, self-sufficient subsistence social system based on a communal land tenure system with a sophisticated language, culture, and religion.

"(3) A unified monarchical government of the Hawaiian Islands was established in 1810 under Kamehameha I, the first King of Hawai'i.

"(4) From 1826 until 1893, the United States recognized the sovereignty and independence of the Kingdom of Hawai'i, which was established in 1810 under Kamehameha I, extended full and complete diplomatic recognition to the Kingdom of Hawai'i, and entered into treaties and conventions with the Kingdom of Hawai'i to govern friendship, commerce and navigation in 1826, 1842, 1849, 1875, and 1887.

"(5) In 1893, the sovereign, independent, internationally recognized, and indigenous government of Hawai'i, the Kingdom of Hawai'i, was overthrown by a small group of non-Hawaiians, including United States citizens, who were assisted in their efforts by the United States Minister, a United States naval representative, and armed naval forces of the United States. Because of the participation of United States agents and citizens in the overthrow of the Kingdom of Hawai'i, the Congress, on behalf of the people of the United States, apologized to Native Hawaiians for the overthrow and the deprivation of the rights of Native Hawaiians to self-determination through Public Law 103-150 (107 Stat. 1510).

"(6) In 1898, the joint resolution entitled 'A Joint Resolution to provide for annexing the Hawaiian Islands to the United States', approved July 7, 1898 (30 Stat. 750), ceded absolute title of all lands held by the Republic of Hawai'i, including the government and crown lands of the former Kingdom of Hawai'i, to the United States, but mandated that revenue generated from these lands be used 'solely for the benefit of the inhabitants of the Hawaiian Islands for educational and other public purposes'.

"(7) By 1919, the Native Hawaiian population had declined from an estimated 1,000,000 in 1778 to an alarming 22,600, and in recognition of this severe decline, the Congress in 1921 enacted the Hawaiian Homes Commission Act, 1920, which designated approximately 200,000 acres of ceded public lands for homesteading by Native Hawaiians.

"(8) Through the enactment of the Hawaiian Homes Commission Act, 1920, the Congress affirmed the special relationship between the United States and the Native Hawaiians, as expressed by then Secretary of the Interior Franklin K. Lane, who was quoted in the committee report for the Hawaiian Homes Commission Act,

1920, as saying: 'One thing that impressed me . . . was the fact that the natives of the island who are our wards, I should say, and for whom in a sense we are trustees, are falling off rapidly in numbers and many of them are in poverty.'

"(9) In 1938, the United States Congress again acknowledged the unique status of the Hawaiian people by including in the Act of June 20, 1938 (52 Stat. 781 et seq.), a provision to lease lands within the National Parks extension to Native Hawaiians and to permit fishing in the area 'only by native Hawaiian residents of said area or of adjacent villages and by visitors under their guidance'.

"(10) Under the Act entitled 'An Act to provide for the admission of the State of Hawai'i into the Union' Approved March 18, 1959 (73 Stat. 4), the United States transferred responsibility for the administration of the Hawaiian Home Lands to the State of Hawai'i but reaffirmed the trust relationship which existed between the United States and the Hawaiian people by retaining the exclusive power to enforce the trust, including the power to approve land exchanges and legislative amendments affecting the rights of beneficiaries under such Act.

"(11) In 1959, under the Act entitled 'An Act to provide for the admission of the State of Hawai'i into the Union', approved March 18, 1959 (73 Stat. 4), the United States ceded to the State of Hawai'i title to the public lands formerly held by the United States, but mandated that such lands be held by the State 'in public trust' and reaffirmed the special relationship which existed between the United States and the Hawaiian people by retaining the legal responsibility to enforce the public trust responsibility of the State of Hawai'i for the betterment of the conditions of Native Hawaiians, as defined in section 201(a) of the Hawaiian Homes Commission Act, 1920.

"(12) The United States assumed special responsibilities for Native Hawaiian lands and resources at the time of the annexation of the Territory in 1898, upon adoption of the Hawaiian Homes Commission Act, 1920, and upon admission of the State of Hawai'i into the Union in 1959, and has retained certain of those responsibilities.

"(13) In recognition of the special relationship which exists between the United States and the Native Hawaiian people, the Congress has extended to Native Hawaiians the same rights and privileges accorded to American Indian, Alaska Native, Eskimo, and Aleut communities under the Native American Programs Act of 1974, the American Indian Religious Freedom Act, the National Museum of the American Indian Act, the Native American Graves Protection and Repatriation Act, the National Historic Preservation Act, and the Native American Languages Act.

"(14) In recognition of the special relationship which exists between the United States and the Native Hawaiian people, the Congress has enacted numerous special provisions of law for the benefit of Native Hawaiians in the areas of health, education, labor, and housing.

"(15) In 1981, the Senate instructed the Office of Education to submit to the Congress a comprehensive report on Native Hawaiian education. The report, entitled the 'Native Hawaiian Educational Assessment Project', was released in 1983 and documented that Native Hawaiians scored below parity with national norms on standardized achievement tests, were disproportionately represented in many negative social and physical statistics, indicative of special educational needs, and had educational needs which were related to their unique cultural situation, such as different learning styles and low self-image.

"(16) In recognition of the educational needs of Native Hawaiians, in 1988, the Congress en-

acted title IV of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 to authorize and develop supplemental educational programs to benefit Native Hawaiians.

"(17) In 1993, the Kamehameha Schools Bishop Estate released a ten-year update of the Native Hawaiian Educational Assessment Project, which found that despite the successes of the programs established under title IV of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, many of the same educational needs still exist for Native Hawaiians. For example—

"(A) educational risk factors continue to start even before birth for many Native Hawaiian children, including—

"(i) late or no prenatal care;

"(ii) half of Native Hawaiian women who give birth are unmarried; and

"(iii) high rates of births to teenage parents;

"(B) Native Hawaiian students continue to begin their school experience lagging behind other students in terms of readiness factors such as vocabulary test scores;

"(C) Native Hawaiian students continue to score below national norms on standardized education achievement tests at all grade levels;

"(D) both public and private schools continue to show a pattern of lower percentages of Native Hawaiian students in the uppermost achievement levels and in gifted and talented programs;

"(E) Native Hawaiian students continue to be overrepresented among students qualifying for special education programs provided to students with learning disabilities, mild mental retardation, emotional impairment, and other such disabilities;

"(F) Native Hawaiians continue to be underrepresented in institutions of higher education and among adults who have completed four or more years of college;

"(G) Native Hawaiians continue to be disproportionately represented in many negative social and physical statistics, indicative of special educational needs, for example—

"(i) Native Hawaiian students are more likely to be retained in grade level and to be excessively absent in secondary school;

"(ii) Native Hawaiian students are the highest users of drugs and alcohol in the State of Hawai'i; and

"(iii) Native Hawaiian children continue to be disproportionately victimized by child abuse and neglect; and

"(H) Native Hawaiians now comprise over 23 percent of the students served by the State of Hawai'i Department of Education and there are and will continue to be geographically rural, isolated areas with a high Native Hawaiian population density.

"(18) The findings described in paragraphs (1) through (17) are contrary to the high rate of literacy and integration of traditional culture and Western education achieved by Native Hawaiians through a Hawaiian language-based public school system established in 1840 by Kamehameha III.

"(19) After the overthrow of the Kingdom of Hawai'i in 1893, Hawaiian medium schools were banned. After annexation, throughout the territorial and statehood period, and until 1986, use of Hawaiian as a medium of education in public schools was declared unlawful, thereby causing incalculable harm to a culture that placed a very high value on the power of language, as exemplified in the traditional saying: 'I ka 'ōlelo no ke ola; I ka 'ōlelo no ka make. In the language rests life; In the language rests death.'

"(20) Despite the consequences of over 100 years of nonindigenous influence, the Native Hawaiian people are determined to preserve, develop, and transmit to future generations their

ancestral territory, and their cultural identity in accordance with their own spiritual and traditional beliefs, customs, practices, language, and social institutions.

"(21) The State of Hawai'i, in the constitution and statutes of the State of Hawai'i—

"(A) reaffirms and protects the unique right of the Native Hawaiian people to practice and perpetuate their culture and religious customs, beliefs, practices, and language; and

"(B) recognizes the traditional language of the Native Hawaiian people as an official language of the State of Hawai'i, which may be used as the language of instruction for all subjects and grades in the public school system.

**"SEC. 9203. PURPOSE.**

"It is the purpose of this part to—

"(1) authorize and develop supplemental educational programs to assist Native Hawaiians in reaching the National Education Goals;

"(2) provide direction and guidance to appropriate Federal, State, and local agencies to focus resources, including resources made available under this part, on Native Hawaiian education, through the establishment of a Native Hawaiian Education Council, and five island councils;

"(3) supplement and expand existing programs and authorities in the area of education to further the purposes of the title; and

"(4) encourage the maximum participation of Native Hawaiians in planning and management of Native Hawaiian Education Programs.

**"SEC. 9204. NATIVE HAWAIIAN EDUCATION COUNCIL AND ISLAND COUNCILS.**

"(a) ESTABLISHMENT OF NATIVE HAWAIIAN EDUCATION COUNCIL.—In order to better effectuate the purposes of this part through the coordination of educational and related services and programs available to Native Hawaiians, including those programs receiving funding under this part, the Secretary is authorized to establish a Native Hawaiian Education Council (hereafter in this part referred to as the 'Education Council').

"(b) COMPOSITION OF EDUCATION COUNCIL.—The Education Council shall consist of not more than 25 members, including a representative of—

"(1) each recipient of funds from the Secretary under this part;

"(2) the State of Hawai'i Department of Education;

"(3) the State of Hawai'i Office of Hawaiian Affairs;

"(4) Native Hawaiian educational organizations, such as Alu Like, Inc., Kamehameha Schools Bishop Estate, Hawaiian Language Immersion Advisory Council, Aha Punana Leo, and the Queen Lili'uokalani Trust and Children's Center; and

"(5) each Native Hawaiian education island council established under subsection (f).

"(c) CONDITIONS AND TERMS.—At least three-fourths of the members of the Education Council shall be Native Hawaiians. Members of the Education Council shall be appointed for three-year terms.

"(d) ADMINISTRATIVE GRANT FOR THE EDUCATION COUNCIL.—The Secretary shall make a direct grant to the Education Council in order to enable the Education Council to—

"(1) coordinate the educational and related services and programs available to Native Hawaiians, including the programs assisted under this part, and assess the extent to which such services and programs meet the needs of Native Hawaiians; and

"(2) provide direction and guidance, through the issuance of reports and recommendations, to appropriate Federal, State, and local agencies in order to focus and improve the use of resources, including resources made available under this part, on Native Hawaiian education.

"(e) ADDITIONAL DUTIES OF THE EDUCATION COUNCIL.—

"(1) IN GENERAL.—The Education Council shall provide copies of any reports and recommendations issued by the Education Council to the Secretary, the Committee on Indian Affairs of the Senate, and the Committee on Education and Labor of the House of Representatives, including any information that the Education Council provides to the Secretary pursuant to subsection (i).

"(2) ANNUAL REPORT.—The Education Council shall present to the Secretary an annual report on the Education Council's activities.

"(3) ISLAND COUNCIL SUPPORT AND ASSISTANCE.—The Education Council shall provide such administrative support and financial assistance to the island councils established pursuant to subsection (f) as the Secretary deems appropriate.

"(f) ESTABLISHMENT OF ISLAND COUNCILS.—

"(1) IN GENERAL.—In order to better effectuate the purposes of this part and to ensure the adequate representation of island and community interests within the Education Council, the Office of Hawaiian Affairs of the State of Hawai'i is authorized to facilitate the establishment of Native Hawaiian education island councils (hereafter in this part referred to as 'island councils') for the following islands:

"(A) Hawai'i.

"(B) Maui and Lana'i.

"(C) Moloka'i.

"(D) Kaua'i and Ni'ihau.

"(E) O'ahu.

"(2) COMPOSITION OF ISLAND COUNCILS.—Each island council shall consist of parents, students, and other community members who have an interest in the education of Native Hawaiians, and shall be representative of the educational needs of all age groups, from preschool through adulthood. At least three-fourths of the members of each island council shall be Native Hawaiians.

"(g) ADMINISTRATIVE PROVISIONS RELATING TO EDUCATION COUNCIL AND ISLAND COUNCILS.—The Education Council and each island council shall meet at the call of the chairperson of the respective council, or upon the request of the majority of the members of the respective council, but in any event not less than four times during each calendar year. The provisions of the Federal Advisory Committee Act shall not apply to the Education Council and each island council.

"(h) COMPENSATION.—Members of the Education Council and each island council shall not receive any compensation for services on the Education Council and each island council, respectively.

"(i) REPORT.—Not later than four years after the date of the enactment of the Improving America's Schools Act of 1994, the Secretary shall prepare and submit to the Committee on Indian Affairs of the Senate, and the Committee on Education and Labor of the House of Representatives, a report which summarizes the annual reports of the Education Council, describes the allocation and utilization of funds under this part, and contains recommendations for changes in Federal, State, and local policy to advance the purposes of this part.

"(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$500,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

**"SEC. 9205. NATIVE HAWAIIAN FAMILY-BASED EDUCATION CENTERS.**

"(a) GENERAL AUTHORITY.—The Secretary is authorized to make direct grants, to Native Hawaiian educational organizations or educational entities with experience in developing or operating Native Hawaiian programs or pro-

grams of instruction conducted in the Native Hawaiian language, to expand the operation of Family-Based Education Centers throughout the Hawaiian Islands. The programs of such centers may be conducted in the Hawaiian language, the English language, or a combination thereof, and shall include—

"(1) parent-infant programs for prenatal through three-year-olds;

"(2) preschool programs for four- and five-year-olds;

"(3) continued research and development; and

"(4) a long-term followup and assessment program, which may include educational support services for Native Hawaiian language immersion programs or transition to English speaking programs.

"(b) ADMINISTRATIVE COSTS.—Not more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

"(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amount authorized to be appropriated for the centers described in subsection (a), there are authorized to be appropriated \$6,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

**"SEC. 9206. NATIVE HAWAIIAN HIGHER EDUCATION PROGRAM.**

"(a) GENERAL AUTHORITY.—

"(1) IN GENERAL.—The Secretary is authorized to make direct grants, to Native Hawaiian educational organizations or educational entities with experience in developing or operating Native Hawaiian programs or programs of instruction conducted in the Native Hawaiian language, to enable such organizations or entities to provide a program of baccalaureate and post-baccalaureate fellowship assistance to Native Hawaiian students.

"(2) ACTIVITIES.—Such program may include—

"(A) full or partial fellowship support for Native Hawaiian students enrolled at two- or four-year degree granting institutions of higher education with awards to be based on academic potential and financial need; and

"(B) full or partial fellowship support for Native Hawaiian students enrolled at post-baccalaureate degree granting institutions of higher education with priority given to providing fellowship support for professions in which Native Hawaiians are underrepresented and with fellowship awards to be based on academic potential and financial need;

"(C) counseling and support services for students receiving fellowship assistance under paragraph (1);

"(D) college preparation and guidance counseling at the secondary school level for students who may be eligible for fellowship support pursuant to subsection (a)(2)(A);

"(E) appropriate research and evaluation of the activities authorized by this section; and

"(F) implementation of faculty development programs for the improvement and matriculation of Native Hawaiian students.

"(b) SPECIAL CONDITIONS REQUIRED.—For the purpose of fellowships awarded under subsection (a), fellowship conditions shall be established whereby fellowship recipients obtain an enforceable contract obligation to provide their professional services, either during the fellowship period or upon completion of a baccalaureate or post-baccalaureate degree program, to the Native Hawaiian community.

"(c) SPECIAL RULE.—No policy shall be made in implementing this section to prevent a Native Hawaiian student enrolled at an accredited two- or four-year degree granting institution of

higher education outside of the State of Hawai'i from receiving a fellowship pursuant to subsections (a) and (b) of this section.

"(d) ADMINISTRATIVE COSTS.—Not more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$2,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

**"SEC. 9207. NATIVE HAWAIIAN GIFTED AND TALENTED PROGRAM.**

"(a) GENERAL AUTHORITY.—The Secretary is authorized to make a grant, to a Native Hawaiian educational organization or an educational entity with experience in developing or operating Native Hawaiian programs or programs of instruction conducted in the Native Hawaiian language, for a gifted and talented program designed to—

"(1) address the special needs of Native Hawaiian elementary and secondary school students who are gifted and talented students; and

"(2) provide those support services to the families of such students that are needed to enable such students to benefit from the program.

"(b) USES OF FUNDS.—The program funded under this section may include—

"(1) the identification of the special needs of Native Hawaiian gifted and talented students, particularly with respect to—

"(A) the emotional and psychosocial needs of such students; and

"(B) the provision of those support services to the families of such students that are needed to enable such students to benefit from the program;

"(2) the conduct of educational, psychosocial, and developmental activities which hold reasonable promise of resulting in substantial progress toward meeting the educational needs of such students, including demonstrating and exploring the use of the Native Hawaiian language and exposure to Native Hawaiian cultural traditions;

"(3) leadership programs designed to—

"(A) replicate programs throughout the State of Hawai'i for gifted and talented students who are not served under this section; and

"(B) coordinate with other Native American gifted and talented leadership programs, including the dissemination of information derived from the program conducted under this section; and

"(4) appropriate research, evaluation, and related activities pertaining to—

"(A) the needs of such students; and

"(B) the provision of those support services to the families of such students that are needed to enable such students to benefit from the program.

"(c) INFORMATION PROVISION.—The Secretary is authorized to facilitate the establishment of a national network of Native Hawaiian and American Indian Gifted and Talented Centers, and ensure that the information developed by these centers shall be readily available to the educational community at large.

"(d) ADMINISTRATIVE COSTS.—Not more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

"(e) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amount authorized to be appropriated for the program described in this section, there are authorized to be appropriated \$1,500,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

**"SEC. 9208. NATIVE HAWAIIAN SPECIAL EDUCATION PROGRAM.**

"(a) GENERAL AUTHORITY.—The Secretary is authorized to make grants to, or enter into contracts with, Native Hawaiian educational organizations or educational entities with experience in developing or operating Native Hawaiian programs or programs of instruction conducted in the Native Hawaiian language, to operate a program to address the special education needs of Native Hawaiian students. Such program may include—

"(1) the identification of Native Hawaiian students with disabilities or who are otherwise in need of special educational services;

"(2) the identification of the special education needs of such students, particularly with respect to—

"(A) the emotional and psychosocial needs of such students; and

"(B) the provision of those support services to the families of such students that are needed to enable such students to benefit from the program;

"(3) the conduct of educational activities consistent with part B of the Education of Individuals with Disabilities Education Act which hold reasonable promise of resulting in substantial progress toward meeting the educational needs of such students;

"(4) the conduct of educational, psychosocial, and developmental activities which hold reasonable promise of resulting in substantial progress toward meeting the educational needs of such students, including demonstrating and exploring the use of the Native Hawaiian language and exposure to Native Hawaiian cultural traditions; and

"(5) appropriate research, evaluation, and related activities pertaining to—

"(A) the needs of such students;

"(B) the provision of those support services to the families of such students that are needed to enable such student to benefit from the program; and

"(C) the outcomes and benefits of activities assisted under this section upon such students.

"(b) ADMINISTRATIVE COSTS.—Not more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

"(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amount authorized to be appropriated for the program described in this section, there are authorized to be appropriated \$2,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

**"SEC. 9209. NATIVE HAWAIIAN CURRICULUM DEVELOPMENT, TEACHER TRAINING AND RECRUITMENT PROGRAM.**

"(a) GENERAL AUTHORITY.—The Secretary is authorized to make direct grants, to Native Hawaiian educational organizations or educational entities with experience in developing or operating Native Hawaiian programs or programs of instruction conducted in the Native Hawaiian language, for the following purposes:

"(1) CURRICULA.—The development of curricula to address the needs of Native Hawaiian students, particularly elementary and secondary school students, which may include programs of instruction conducted in the Native Hawaiian language, and mathematics and science curricula incorporating the relevant application of Native Hawaiian culture and traditions.

"(2) PRETEACHER TRAINING.—The development and implementation of preteacher training programs in order to ensure that student teachers within the State of Hawai'i, particularly student teachers who are likely to be employed in schools with a high concentration of Native Hawaiian students, are prepared to better address

the unique needs of Native Hawaiian students, within the context of Native Hawaiian culture, language and traditions.

"(3) INSERVICE TEACHER TRAINING.—The development and implementation of inservice teacher training programs, in order to ensure that teachers, particularly teachers employed in schools with a high concentration of Native Hawaiian students, are prepared to better address the unique needs of Native Hawaiian students, within the context of Native Hawaiian culture, language and traditions.

"(4) TEACHER RECRUITMENT.—The development and implementation of teacher recruitment programs to meet the objectives of—

"(A) enhancing teacher recruitment within communities with a high concentration of Native Hawaiian students; and

"(B) increasing the numbers of teachers who are of Native Hawaiian ancestry.

"(b) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to awarding grants for activities described in subsection (a) that—

"(1) focus on the needs of at-risk youth; or

"(2) employ a program of instruction conducted in the Native Hawaiian language, except that entities receiving grants awarded pursuant to subsection (a)(2) shall coordinate in the development of new curricula.

"(c) ADMINISTRATIVE COSTS.—Not more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$2,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

**"SEC. 9210. NATIVE HAWAIIAN COMMUNITY-BASED EDUCATION LEARNING CENTERS.**

"(a) GENERAL AUTHORITY.—The Secretary is authorized to make direct grants, to collaborative efforts between community-based Native Hawaiian organizations and community colleges, to develop, establish, and operate a minimum of three community-based education learning centers.

"(b) PURPOSE.—The learning centers described in subsection (a) shall meet the needs of families and communities through interdepartmental and interagency coordination of new and existing public and private programs and services, which may include—

"(1) preschool programs;

"(2) after-school programs; and

"(3) vocational and adult education programs.

"(c) ADMINISTRATIVE COSTS.—Not more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$1,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

**"SEC. 9211. ADMINISTRATIVE PROVISIONS.**

"(a) APPLICATION REQUIRED.—No grant may be made under this part, nor any contract be entered into under this part, unless an application is submitted to the Secretary in such form, in such manner, and containing such information as the Secretary may determine necessary to carry out the provisions of this title.

"(b) SPECIAL RULE.—Each application submitted under this title shall be accompanied by the comments of each local educational agency serving students who will participate in the project for which assistance is sought.

**"SEC. 9212. DEFINITIONS.**

"For the purposes of this part—

"(1) The term 'Native Hawaiian' means any individual who is—

"(A) a citizen of the United States; and

"(B) a descendant of the aboriginal people, who prior to 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawai'i, as evidenced by—

"(i) genealogical records;

"(ii) Kūpuna (elders) or Kama'āina (long-term community residents) verification; or

"(iii) certified birth records.

"(2) The term 'Native Hawaiian educational organization' means a private nonprofit organization that—

"(A) serves the interests of Native Hawaiians;

"(B) has Native Hawaiians in substantive and policymaking positions within the organization;

"(C) has a demonstrated expertise in the education of Native Hawaiian youth; and

"(D) has demonstrated expertise in research and program development.

"(3) The term 'Native Hawaiian Organization' means a private nonprofit organization that—

"(A) serves the interests of Native Hawaiians;

"(B) has Native Hawaiians in substantive and policymaking positions within the organizations; and

"(C) is recognized by the Governor of Hawai'i for the purpose of planning, conducting, or administering programs (or portions of programs) for the benefit of Native Hawaiians.

"(4) The term 'Native Hawaiian language' means the single Native American language indigenous to the original inhabitants of the State of Hawai'i.

"(5) The term 'Office of Hawaiian Affairs' means the Office of Hawaiian Affairs established by the Constitution of the State of Hawai'i.

"(6) The term 'Native Hawaiian community-based organization' means any organization which is composed primarily of Native Hawaiians from a specific community and which assists in the social, cultural and educational development of Native Hawaiians in that community.

**"PART C—ALASKA NATIVE EDUCATION****"SEC. 9301. SHORT TITLE.**

"This part may be cited as the 'Alaska Native Educational Equity, Support and Assistance Act'.

**"SEC. 9302. FINDINGS.**

"The Congress finds and declares:

"(1) The attainment of educational success is critical to the betterment of the conditions, long term well being and preservation of the culture of Alaska Natives.

"(2) It is the policy of the Federal Government to encourage the maximum participation by Alaska Natives in the planning and the management of Alaska Native education programs.

"(3) Alaska Native children enter and exit school with serious educational handicaps.

"(4) The educational achievement of Alaska Native children is far below national norms. In addition to low Native performance on standardized tests, Native student drop out rates are high, and Natives are significantly underrepresented among holders of baccalaureate degrees in the State of Alaska. As a result Native students are being denied their opportunity to become full participants in society by grade school and high school educations that are condemning an entire generation to an underclass status and a life of limited choices.

"(5) The programs authorized herein, combined with expanded Head Start, infant learning and early childhood education programs, and parent education programs are essential if educational handicaps are to be overcome.

"(6) The sheer magnitude of the geographic barriers to be overcome in delivering educational

services in rural and village Alaska should be addressed through the development and implementation of innovative, model programs in a variety of areas.

"(7) Congress finds that Native children should be afforded the opportunity to begin their formal education on a par with their non-Native peers. The Federal Government should lend support to efforts developed by and undertaken within the Alaska Native community to improve educational opportunity for all students.

**"SEC. 9303. PURPOSE.**

"It is the purpose of this part to—

"(1) recognize the unique educational needs of Alaska Natives;

"(2) authorize the development of supplemental educational programs to benefit Alaska Natives;

"(3) supplement existing programs and authorities in the area of education to further the purposes of this part; and

"(4) provide direction and guidance to appropriate Federal, State and local agencies to focus resources, including resources made available under this part, on meeting the educational needs of Alaska Natives.

**"SEC. 9304. ALASKA NATIVE EDUCATIONAL PLANNING, CURRICULUM DEVELOPMENT, TEACHER TRAINING AND RECRUITMENT PROGRAM.**

"(a) GENERAL AUTHORITY.—The Secretary shall make direct grants to Alaska Native organizations or educational entities with experience in developing or operating Alaska Native programs or programs of instruction conducted in Alaska Native languages, or to partnerships involving Alaska Native organizations, for the following purposes:

"(1) EDUCATIONAL PLANNING.—The consolidation of existing educational plans, recommendations and research into implementation methods and strategies to improve schooling for Alaska Natives.

"(2) IMPLEMENTATION OF EDUCATIONAL PLANS.—The adoption and implementation of specific educational plans developed under subsection (1) above.

"(3) CURRICULA.—The development of curricula to address the needs of Alaska Native students, particularly elementary and secondary school students, which may include innovative programs and pilot and demonstration programs to develop and introduce curriculum materials that reflect cultural diversities or the contributions of Alaska Native people, programs of instruction conducted in Native languages, and the development of networks to introduce successful techniques, programs and curriculum materials to rural and urban schools, including:

"(A) multimedia social studies curricula which fully and accurately portray the role of Native Americans historically and contemporarily; and

"(B) curricula and teaching materials for instructions in Native languages.

"(4) PRETEACHER TRAINING.—The development and implementation of preteacher training program in order to ensure that student teachers within the State of Alaska, particularly student teachers who are likely to be employed in schools with a high concentration of Alaska Native students, are prepared to better address the cultural diversity and unique needs of Alaska Native students;

"(5) TEACHER RECRUITMENT.—The development and implementation of teacher recruitment programs to meet the objectives of—

"(A) increasing the numbers of teachers who are Alaska Natives;

"(B) enhancing teacher recruitment within communities with a high concentration of Alaska Native students; and

"(C) improving the teacher selection processes in order to recruit teachers who are more posi-

tively responsive to rural conditions and who are suited for effective cross-cultural instruction.

"(6) INSERVICE TEACHER TRAINING.—The development and implementation of inservice teacher training programs in order to ensure that teachers are prepared to better address the unique needs of Alaska Native students.

"(b) ADMINISTRATIVE COSTS.—Not more than 10 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$5,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

**"SEC. 9305. ALASKA NATIVE HOME BASED EDUCATION FOR PRESCHOOL CHILDREN.**

"(a) GENERAL AUTHORITY.—The Secretary shall make direct grants to Alaska Native organizations or educational entities with experience in developing or operating Alaska Native programs, or to partnerships involving Alaska Native organizations, to implement home instruction programs for Alaska Native preschool youngsters. The objective of such programs shall be to develop parents as educators for their children and to assure the active involvement of parents in the education of their children from the earliest ages.

"(b) PROGRAM ELEMENTS.—Home based education programs for Alaska Native children shall include—

"(1) parent-infant programs for prenatal through three-year olds;

"(2) preschool programs for four- and five-year olds;

"(3) training, education and support programs to teach parents skills in observation, reading readiness, story telling and critical thinking;

"(4) continued research and development; and

"(5) a long term followup and assessment program.

"(c) ELIGIBILITY OF HIPPY PROGRAMS.—Programs based on the HIPPY (Home Instruction Program for Preschool Youngsters) model shall be eligible for funding under this section.

"(d) ADMINISTRATIVE COSTS.—Not more than 10 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$2,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

**"SEC. 9306. ALASKA NATIVE STUDENT ENRICHMENT PROGRAMS.**

"(a) GENERAL AUTHORITY.—The Secretary shall make a grant or grants to Alaska Native educational organizations or educational entities with experience in developing or operating Alaska Native programs, or to partnerships including Alaska Native organizations, for enrichment programs for Alaska Native students in the areas of science and mathematics education. The programs shall be designed to—

"(1) prepare qualified students from rural areas who are preparing to enter village high schools to excel in science and mathematics; and

"(2) provide those support services to the families of such students that are needed to enable such students to benefit from the program.

"(b) USES OF FUNDS.—The program funded under this section may include—

"(1) the identification of the students eligible to participate in the program;

"(2) the conduct of educational, psychosocial, and developmental activities which hold reasonable promise of resulting in substantial enrichment of the educational performance of the participating students;

"(3) leadership programs designed to provide for the replication of the program in other subject matter areas and the dissemination of information derived from the program; and

"(4) appropriate research, evaluation and related activities pertaining to the benefits of such enrichment programs.

"(c) ADMINISTRATIVE COSTS.—Not more than 10 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$1,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

**"SEC. 9307. ADMINISTRATIVE PROVISIONS.**

"(a) APPLICATION REQUIRED.—No grant may be made under this part, nor any contract be entered into under this part, unless an application is submitted to the Secretary in such form, in such manner, and containing such information as the Secretary may determine necessary to carry out the provisions of this part.

"(b) APPLICATIONS BY LOCAL SCHOOL DISTRICTS OR STATE EDUCATIONAL ENTITIES.—Local school districts or State educational entities shall apply for funding under this Part in partnership with Alaska Native organizations.

"(c) CONSULTATION REQUIRED.—Each applicant for funding shall provide for ongoing advice from and consultation with representatives of the Alaska Native community.

"(d) LOCAL EDUCATIONAL AGENCY COORDINATION.—Each local educational agency serving students who will participate in the program for which assistance is sought shall be informed regarding each application submitted under this part, except that approval by or concurrence from such local educational agency shall not be required.

"(e) IMPLEMENTATION OF AUTHORITIES.—The Secretary shall expeditiously obligate funds appropriated as provided in this part.

**"SEC. 9308. DEFINITIONS.**

"For purposes of this part—

"(1) the term 'Alaska Native' has the same meaning as the term 'Native' has in section 3(b) of the Alaska Native Claims Settlement Act.

"(2) the term 'Alaska Native organization' means a federally recognized tribe, consortium of tribes, regional nonprofit Native association, and other Alaska Native organizations that:

"(A) has or commits to acquire expertise in the education of Alaska Natives; and

"(B) has Alaska Natives in substantive and policy-making positions within the organization.

**"TITLE X—PROGRAMS OF NATIONAL SIGNIFICANCE**

**"PART A—FUND FOR THE IMPROVEMENT OF EDUCATION**

**"SEC. 10101. FUND FOR THE IMPROVEMENT OF EDUCATION.**

"(a) FUND AUTHORIZED.—From funds appropriated under subsection (d), the Secretary is authorized to support nationally significant programs and projects to improve the quality of education, assist all students to meet challenging State content standards and challenging State student performance standards, and contribute to achievement of the National Education Goals. The Secretary is authorized to carry out such programs and projects directly or through grants to, or contracts with, State and local educational agencies, institutions of high-

er education, and other public and private agencies, organizations, and institutions.

"(b) USES OF FUNDS.—

"(1) IN GENERAL.—Funds under this section may be used for—

"(A) activities that will promote systemic education reform at the State and local levels, such as—

"(i) research and development related to challenging State content and challenging State student performance standards and opportunity-to-learn standards or strategies for student learning;

"(ii) the development and evaluation of model strategies for—

"(I) assessment of student learning;

"(II) professional development for teachers and administrators;

"(III) parent and community involvement; and

"(IV) other aspects of systemic reform;

"(iii) developing and evaluating strategies for eliminating ability-grouping practices, and developing policies and programs that place all students on a college-preparatory path of study, particularly in academic fields such as mathematics, science, English, and social studies, including comprehensive inservice programs for teachers and pupil services personnel and academic enrichment programs that supplement regular courses for students;

"(iv) developing and evaluating programs that directly involve parents and family members in the academic progress of their children;

"(v) developing and evaluating strategies for integrating instruction and assessment such that teachers and administrators can focus on what students should know and be able to do at particular grade levels, which instruction shall promote the synthesis of knowledge, encourage the development of problem-solving skills drawing on a vast range of disciplines, and promote the development of higher order thinking by all students; and

"(vi) developing and evaluating strategies for supporting professional development for teachers across all disciplines and for pupil services personnel, guidance counselors, and administrators, including inservice training that improves the skills of pupil services personnel, counselors and administrators for working with students from diverse populations;

"(B) demonstrations at the State and local levels that are designed to yield nationally significant results, including approaches to public school choice and school-based decisionmaking;

"(C) joint activities with other agencies to assist the effort to achieve the National Education Goals, including activities related to improving the transition from preschool to school and from school to work, as well as activities related to the integration of education and health and social services;

"(D) activities to promote and evaluate counseling and mentoring for students, including intergenerational mentoring;

"(E) activities to promote and evaluate coordinated pupil services programs;

"(F) activities to promote comprehensive health education;

"(G) activities to promote environmental education;

"(H) activities to promote consumer, economic, and personal finance education, such as saving, investing, and entrepreneurial education;

"(I) activities to promote programs to assist students to demonstrate competence in foreign languages;

"(J) studies and evaluation of various education reform strategies and innovations being pursued by the Federal Government, States, and local educational agencies;

"(K) activities to promote metric education;

"(L) the identification and recognition of exemplary schools and programs, such as Blue Ribbon Schools;

"(M) programs designed to promote gender equity in education by evaluating and eliminating gender bias in instruction and educational materials, identifying, and analyzing gender inequities in educational practices, and implementing and evaluating educational policies and practices designed to achieve gender equity;

"(N) programs designed to reduce excessive student mobility, retain students who move within a school district at the same school, educate parents about the effect of mobility on a child's education and encourage parents to participate in school activities;

"(O) experiential-based learning, such as service-learning;

"(P) the development and expansion of public-private partnership programs which extend the learning experience, via computers, beyond the classroom environment into student homes through such programs as the Buddy System Computer Project;

"(Q) other programs and projects that meet the purposes of this section;

"(R) activities to promote child abuse education and prevention programs;

"(S) activities to raise standards and expectations for academic achievement among all students, especially disadvantaged students traditionally underserved in schools;

"(T) activities to provide the academic support, enrichment and motivation to enable all students to reach such standards;

"(U) demonstrations relating to the planning and evaluations of the effectiveness of projects under which local educational agencies or schools contract with private management organizations to reform a school or schools;

"(V) demonstrations that are designed to test whether prenatal and counseling provided to pregnant students may have a positive effect on pregnancy outcomes, with such education and counseling emphasizing the importance of prenatal care, the value of sound diet and nutrition habits, and the harmful effects of smoking, alcohol, and substance abuse on fetal development;

"(W) programs under section 10102;

"(X) programs under section 10103;

"(Y) programs under section 10104; and

"(Z) programs under section 10105;

"(2) ADDITIONAL USES.—The Secretary may also use funds under this section to complete the project periods for direct grants or contracts awarded under the provisions of this Act, the Fund for the Improvement and Reform of Schools and Teaching Act, or title III of the Education for Economic Security Act, as such Acts were in effect on the day preceding the date of the enactment of the Improving America's Schools Act of 1994.

"(3) SPECIAL RULE.—The Secretary shall not make available more than \$1,000,000 to carry out paragraph (1)(R), nor more than \$1,000,000 to carry out paragraph (1)(V) during the period beginning on October 1, 1994, through September 30, 1999.

"(c) AWARDS.—

"(1) IN GENERAL.—The Secretary may—

"(A) make awards under this section on the basis of competitions announced by the Secretary; and

"(B) support meritorious unsolicited proposals.

"(2) SPECIAL RULE.—The Secretary shall ensure that programs, projects, and activities supported under this section are designed so that the effectiveness of such programs, projects, and activities is readily ascertainable.

"(3) PEER REVIEW.—The Secretary shall use a peer review process in reviewing applications for assistance under this section and may use funds appropriated under subsection (d) for the cost of such peer review.

"(d) AUTHORIZATION.—For the purpose of carrying out this section, there are authorized to be

appropriated \$50,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

**"SEC. 10102. ELEMENTARY SCHOOL COUNSELING DEMONSTRATION.**

**"(a) COUNSELING DEMONSTRATION.—**

**"(1) In General.—**The Secretary may award grants under this section to establish or expand elementary school counseling programs.

**"(2) PRIORITY.—**In awarding grants under this section, the Secretary shall give special consideration to applications describing programs that—

**"(A)** demonstrate the greatest need for new or additional counseling services among the children in the elementary schools served by the applicant;

**"(B)** propose the most promising and innovative approaches for initiating or expanding elementary school counseling; and

**"(C)** show the greatest potential for replication and dissemination.

**"(3) EQUITABLE DISTRIBUTION.—**In awarding grants under this section, the Secretary shall ensure an equitable geographic distribution among the regions of the United States and among urban, suburban, and rural areas.

**"(4) DURATION.—**A grant under this section shall be awarded for a period not to exceed three years.

**"(5) MAXIMUM GRANT.—**A grant under this section shall not exceed \$400,000 for any fiscal year.

**"(b) APPLICATIONS.—**

**"(1) IN GENERAL.—**Each local educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

**"(2) CONTENTS.—**Each application for a grant under this section shall—

**"(A)** describe the elementary school population to be targeted by the program, the particular personal, social, emotional, educational, and career development needs of such population, and the current school counseling resources available for meeting such needs;

**"(B)** describe the activities, services, and training to be provided by the program and the specific approaches to be used to meet the needs described in subparagraph (A);

**"(C)** describe the methods to be used to evaluate the outcomes and effectiveness of the program;

**"(D)** describe the collaborative efforts to be undertaken with institutions of higher education, businesses, labor organizations, community groups, social service agencies, and other public or private entities to enhance the program and promote school-linked services integration;

**"(E)** describe collaborative efforts with institutions of higher education which specifically seek to enhance or improve graduate programs specializing in the preparation of elementary school counselors, school psychologists, and school social workers;

**"(F)** document that the applicant has the personnel qualified to develop, implement, and administer the program;

**"(G)** describe how any diverse cultural populations, if applicable, would be served through the program;

**"(H)** assure that the funds made available under this part for any fiscal year will be used to supplement and, to the extent practicable, increase the level of funds that would otherwise be available from non-Federal sources for the program described in the application, and in no case supplant such funds from non-Federal sources; and

**"(I)** assure that the applicant will appoint an advisory board composed of parents, school

counselors, school psychologists, school social workers, other pupil services personnel, teachers, school administrators, and community leaders to advise the local educational agency on the design and implementation of the program.

**"(c) USE OF FUNDS.—**

**"(1) IN GENERAL.—**Grant funds under this section shall be used to initiate or expand elementary school counseling programs that comply with the requirements in paragraph (2).

**"(2) PROGRAM REQUIREMENTS.—**Each program assisted under this section shall—

**"(A)** be comprehensive in addressing the personal, social, emotional, and educational needs of all students;

**"(B)** use a developmental, preventive approach to counseling;

**"(C)** increase the range, availability, quantity, and quality of counseling services in the elementary schools of the local educational agency;

**"(D)** expand counseling services only through qualified school counselors, school psychologists, and school social workers;

**"(E)** use innovative approaches to increase children's understanding of peer and family relationships, work and self, decisionmaking, academic and career planning, or to improve social functioning;

**"(F)** provide counseling services that are well-balanced among classroom group and small group counseling, individual counseling, and consultation with parents, teachers, administrators, and other pupil services personnel;

**"(G)** include inservice training for school counselors, school social workers, school psychologists, other pupil services personnel, teachers, and instructional staff;

**"(H)** involve parents of participating students in the design, implementation, and evaluation of a counseling program;

**"(I)** involve collaborative efforts with institutions of higher education, businesses, labor organizations, community groups, social service agencies, or other public or private entities to enhance the program and promote school-linked services integration; and

**"(J)** evaluate annually the effectiveness and outcomes of the counseling services and activities assisted under this section.

**"(3) REPORT.—**The Secretary shall issue a report evaluating the programs assisted pursuant to each grant under this subsection at the end of each grant period in accordance with section 14701, but in no case later than January 30, 1998.

**"(4) DISSEMINATION.—**The Secretary shall make the programs assisted under this section available for dissemination, either through the National Diffusion Network or other appropriate means.

**"(5) LIMIT ON ADMINISTRATION.—**Not more than five percent of the amounts made available under this section in any fiscal year shall be used for administrative costs to carry out this section.

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

**"(1)** the term 'school counselor' means an individual who has documented competence in counseling children and adolescents in a school setting and who—

**"(A)** possesses State licensure or certification granted by an independent professional regulatory authority;

**"(B)** in the absence of such State licensure or certification, possesses national certification in school counseling or a specialty of counseling granted by an independent professional organization; or

**"(C)** holds a minimum of a master's degree in school counseling from a program accredited by the Council for Accreditation of Counseling and Related Educational Programs or the equivalent;

**"(2)** the term 'school psychologist' means an individual who—

**"(A)** possesses a minimum of 60 graduate semester hours in school psychology from an institution of higher education and has completed 1,200 clock hours in a supervised school psychology internship, of which 600 hours shall be in the school setting;

**"(B)** possess State licensure or certification in the State in which the individual works; or

**"(C)** in the absence of such State licensure or certification, possess national certification by the National School Psychology Certification Board;

**"(3)** the term 'school social worker' means an individual who holds a master's degree in social work and is licensed or certified by the State in which services are provided or holds a school social work specialist credential; and

**"(4)** the term 'supervisor' means an individual who has the equivalent number of years of professional experience in such individual's respective discipline as is required of teaching experience for the supervisor or administrative credential in the State of such individual.

**"SEC. 10103. PARTNERSHIPS IN CHARACTER EDUCATION PILOT PROJECT.**

**"(a) PROGRAM AUTHORIZED.—**

**"(1) IN GENERAL.—**The Secretary is authorized to make up to a total of ten grants annually to partnerships of State educational agencies and local educational agencies for the design and implementation of character education programs that incorporate the elements of character listed in subsection (d), as well as other character elements identified by applicants.

**"(2) MAXIMUM AMOUNT OF GRANT.—**No State educational agency shall receive more than a total of \$1,000,000 in grants under this part.

**"(3) DURATION.—**Each grant under this section shall be awarded for a period not to exceed five years, of which the State educational agency shall not use more than one year for planning and program design.

**"(b) STATE EDUCATIONAL AGENCY APPLICATIONS.—**

**"(1) REQUIREMENT.—**Each State educational agency desiring a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

**"(2) PARTNERSHIPS.—**Each State educational agency desiring a grant under this section shall form a partnership with at least one local educational agency to be eligible for funding. The partnership shall pursue State and local initiatives to meet the objectives of this section.

**"(3) APPLICATION.—**Each application under this section shall include—

**"(A)** a list of the local educational agencies entering into the partnership with the State educational agency;

**"(B)** a description of the goals of the partnership;

**"(C)** a description of activities that will be pursued by the participating local educational agencies, including—

**"(i)** how parents, students, and other members of the community, including members of private and nonprofit organizations, will be involved in the design and implementation of the program;

**"(ii)** curriculum and instructional practices;

**"(iii)** methods of teacher training and parent education that will be used or developed; and

**"(iv)** examples of activities that will be carried out under this part;

**"(D)** a description of how the State educational agency will provide technical and professional assistance to its local educational agency partners in the development and implementation of character education programs;

**"(E)** a description of how the State educational agency will evaluate the success of local programs and how local educational agencies will evaluate the progress of their own programs;

"(F) a description of how the State educational agency will assist other interested local educational agencies that are not members of the original partnership in designing and establishing programs;

"(G) a description of how the State educational agency will establish a clearinghouse for information on model programs, materials, and other information the State and local educational agencies determine to be appropriate;

"(H) an assurance that the State educational agency will annually provide to the Secretary such information as may be required to determine the effectiveness of the program; and

"(I) any other information that the Secretary may require.

"(4) **NON-PARTNER LOCAL EDUCATIONAL AGENCIES.**—Any local educational agency that was not a partner with the State when the application was submitted may become a partner by submitting an application for partnership to the State educational agency, containing such information that the State educational agency may require.

"(C) **EVALUATION AND PROGRAM DEVELOPMENT.**—

"(1) **REQUIREMENT.**—Each State educational agency receiving a grant under this section shall submit to the Secretary a comprehensive evaluation of the program assisted under this part, including the impact on students, teachers, administrators, parents, and others—

"(A) by the mid-term of the program; and

"(B) not later than one year after completion of such program.

"(2) **CONTRACTS FOR EVALUATION.**—Each State educational agency receiving a grant under this section may contract with outside sources, including institutions of higher education, and private and nonprofit organizations, for purposes of evaluating their program and measuring the success of the program toward fostering in students the elements of character listed in subsection (b).

"(3) **FACTORS.**—Factors which may be considered in evaluating the success of the program may include—

"(A) discipline problems;

"(B) students' grades;

"(C) participation in extracurricular activities;

"(D) parental and community involvement;

"(E) faculty and administration involvement; and

"(F) student and staff morale.

"(4) **MATERIALS AND PROGRAM DEVELOPMENT.**—Local educational agencies, after consulting with the State educational agency, may contract with outside sources, including institutions of higher education, and private and nonprofit organizations, for assistance in developing curriculum, materials, teacher training, and other activities related to character education.

"(d) **ELEMENTS OF CHARACTER.**—

"(1) **IN GENERAL.**—Applicants desiring funding under this part shall develop character education programs that incorporate the following elements of character:

"(A) Caring.

"(B) Civic virtue and citizenship.

"(C) Justice and fairness.

"(D) Respect.

"(E) Responsibility.

"(F) Trustworthiness.

"(G) Any other elements deemed appropriate by the members of the partnership.

"(2) **ADDITIONAL ELEMENTS OF CHARACTER.**—A local educational agency participating under this section may, after consultation with schools and communities of such agency, define additional elements of character that the agency determines to be important to the schools and communities of such agency.

"(e) **USE OF FUNDS.**—Of the total funds received by a State educational agency in any fiscal year under this section—

"(1) not more than 30 percent of such funds may be retained by the State educational agency, of which—

"(A) not more than 10 percent of such funds may be used for administrative purposes; and

"(B) the remainder of such funds may be used for—

"(i) collaborative initiatives with local educational agencies;

"(ii) the establishment of the clearinghouse, preparation of materials, teacher training; and

"(iii) other appropriate activities; and

"(2) the remaining of such funds shall be used to award subgrants to local educational agencies, of which—

"(A) not more than 10 percent of such funds may be retained for administrative purposes; and

"(B) the remainder of such funds may be used to—

"(i) award subgrants to schools within the local educational agency; and

"(ii) pursue collaborative efforts with the State educational agency.

"(f) **SELECTION OF GRANTEEES.**—

"(1) **CRITERIA.**—The Secretary shall select, through peer review, partnerships to receive grants under this section on the basis of the quality of the applications submitted under subsection (b), taking into consideration such factors as—

"(A) the quality of the activities proposed by local educational agencies;

"(B) the extent to which the program fosters in students the elements of character;

"(C) the extent of parental, student, and community involvement;

"(D) the number of local educational agencies involved in the effort;

"(E) the quality of the plan for measuring and assessing success; and

"(F) the likelihood that the goals of the program will be realistically achieved.

"(2) **DIVERSITY OF PROJECTS.**—The Secretary shall approve applications under this section in a manner that ensures, to the extent practicable, that programs assisted under this section—

"(A) serve different areas of the Nation, including urban, suburban, and rural areas; and

"(B) serve schools that serve minorities, Native Americans, students of limited-English proficiency, and disadvantaged students.

"SEC. 10104. **PROMOTING SCHOLAR-ATHLETE COMPETITIONS.**

"(a) **IN GENERAL.**—The Secretary is authorized to award a grant to a nonprofit organization to reimburse such organizations for the costs of conducting scholar-athlete games to be held in 1995.

"(b) **PRIORITY.**—In awarding the grant under subsection (a), the Secretary shall give priority to a nonprofit organization that—

"(1) is described in section 501(c)(3) of, and exempt from taxation under section 501(a) of, the Internal Revenue Code of 1986, and is affiliated with a university capable of hosting a large educational, cultural, and athletic event that will serve as a national model;

"(2) has the capability and experience in administering federally funded scholar-athlete games;

"(3) has the ability to provide matching funds, on a dollar-for-dollar basis, from foundations and the private sector for the purpose of conducting a scholar-athlete program;

"(4) has the organizational structure and capability to administer a model scholar-athlete program in the summer of 1995;

"(5) has the organizational structure and expertise to replicate the scholar-athlete program in various venues throughout the United States in 1996 and thereafter, as well as replicate such program internationally; and

"(6) has plans for conducting scholar-athlete games after 1995 without Federal assistance.

"SEC. 10105. **SMALLER LEARNING COMMUNITIES.**

"(a) **IN GENERAL.**—Each local educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall describe—

"(1) strategies and methods the applicant will use to create the smaller learning community or communities;

"(2) curriculum and instructional practices, including any particular themes or emphases, to be used in the learning environment;

"(3) the extent of involvement of teachers and other school personnel in investigating, designing, implementing and sustaining the smaller learning community or communities;

"(4) the process to be used for involving students, parents and other stakeholders in the development and implementation of the smaller learning community or communities;

"(5) any cooperation or collaboration among community agencies, organizations, businesses, and others to develop or implement a plan to create the smaller learning community or communities;

"(6) the training and professional development activities that will be offered to teachers and others involved in the activities assisted under this part;

"(7) the goals and objectives of the activities assisted under this part, including a description of how such activities will better enable all students to reach challenging State content standards and State student performance standards;

"(8) the methods by which the applicant will assess progress in meeting such goals and objectives;

"(9) if the smaller learning community or communities exist as a school-within-a-school, the relationship, including governance and administration, of the smaller learning community to the rest of the school;

"(10) a description of the administrative and managerial relationship between the local educational agency and the smaller learning community or communities, including how such agency will demonstrate a commitment to the continuity of the smaller learning community or communities, including the continuity of student and teacher assignment to a particular learning community;

"(11) how the applicant will coordinate or use funds provided under this part with other funds provided under this Act or other Federal laws;

"(12) grade levels or ages of students who will participate in the smaller learning community or communities; and

"(13) the method of placing students in the smaller learning community or communities, such that students are not placed according to ability, performance or any other measure, so that students are placed at random or by their own choice, not pursuant to testing or other judgments.

"(b) **AUTHORIZED ACTIVITIES.**—Funds under this section may be used—

"(1) to study the feasibility of creating the smaller learning community or communities as well as effective and innovative organizational and instructional strategies that will be used in the smaller learning community or communities;

"(2) to research, develop and implement strategies for creating the smaller learning community or communities, as well as effective and innovative changes in curriculum and instruction, geared to high State content standards and State student performance standards;

"(3) to provide professional development for school staff in innovative teaching methods that challenge and engage students to be used in the smaller learning community or communities; and

"(4) to develop and implement strategies to include parents, business representatives, local institutions of higher education, community-based organizations, and other community members in the smaller learning communities, as facilitators of activities that enable teachers to participate in professional development activities, as well as to provide links between students and their community.

**"SEC. 10106. NATIONAL STUDENT AND PARENT MOCK ELECTION.**

"(a) **IN GENERAL.**—The Secretary is authorized to award grants to national nonprofit, nonpartisan organizations that work to promote voter participation in American elections to enable such organizations to carry out voter education activities for students and their parents. Such activities shall—

"(1) be limited to simulated national elections that permit participation by students and parents from all 50 States in the United States; and

"(2) consist of—

"(A) school forums and local cable call-in shows on the national issues to be voted upon in an 'issue forum';

"(B) speeches and debates before students and parents by local candidates or stand-ins for such candidates;

"(C) quiz team competitions, mock press conferences and speechwriting competitions;

"(D) weekly meetings to follow the course of the campaign; or

"(E) school and neighborhood campaigns to increase voter turnout, including newsletters, posters, telephone chains, and transportation.

"(b) **REQUIREMENT.**—Each organization receiving a grant under this section shall present awards to outstanding student and parent mock election projects.

**"SEC. 10107. MODEL PROJECTS.**

"(a) **PROGRAM AUTHORIZED.**—The Secretary is authorized to award grants to cultural institutions to enable such institutions to develop and expand model projects of outreach activities for at-risk children in the communities served by such institutions, including activities which integrate such institution's cultural programming with other disciplines, including environmental, mathematics, and science programs.

"(b) **PRIORITY.**—In awarding grants under this section the Secretary shall give priority to activities that are part of an overall State, local, and private commitment, seek to improve learning for at-risk youth, and are substantially funded by State, local, or private funds.

**"PART B—GIFTED AND TALENTED CHILDREN**

**"SEC. 10201. SHORT TITLE.**

"This part may be cited as the 'Jacob K. Javits Gifted and Talented Students Education Act of 1994'.

**"SEC. 10202. FINDINGS AND PURPOSES.**

"(a) **FINDINGS.**—The Congress finds and declares that—

"(1) all students can learn to high standards and must develop their talents and realize their potential if the United States is to prosper;

"(2) gifted and talented students are a national resource vital to the future of the Nation and its security and well-being;

"(3) too often schools fail to challenge students to do their best work, and students who are not challenged will not learn to challenge State content standards and challenging State student performance standards, fully develop their talents, and realize their potential;

"(4) unless the special abilities of gifted and talented students are recognized and developed during such students' elementary and secondary school years, much of such students' special potential for contributing to the national interest is likely to be lost;

"(5) gifted and talented students from economically disadvantaged families and areas,

and students of limited-English proficiency are at greatest risk of being unrecognized and of not being provided adequate or appropriate educational services;

"(6) State and local educational agencies and private nonprofit schools often lack the necessary specialized resources to plan and implement effective programs for the early identification of gifted and talented students and for the provision of educational services and programs appropriate to their special needs;

"(7) the Federal Government can best carry out the limited but essential role of stimulating research and development and personnel training and providing a national focal point of information and technical assistance that is necessary to ensure that the Nation's schools are able to meet the special educational needs of gifted and talented students, and thereby serve a profound national interest; and

"(8) the experience and knowledge gained in developing and implementing programs for gifted and talented students can and should be used as a basis to—

"(A) develop a rich and challenging curriculum for all students; and

"(B) provide all students with important and challenging subject matter to study and encourage the habits of hard work.

"(b) **STATEMENT OF PURPOSE.**—It is the purpose of this part—

"(1) to provide financial assistance to State and local educational agencies, institutions of higher education, and other public and private agencies and organizations, to initiate a coordinated program of research, demonstration projects, personnel training, and similar activities designed to build a nationwide capability in elementary and secondary schools to meet the special educational needs of gifted and talented students;

"(2) to encourage the development of rich and challenging curricula for all students through the appropriate application and adaptation of materials and instructional methods developed under this part; and

"(3) to supplement and make more effective the expenditure of State and local funds, for the education of gifted and talented students.

**"SEC. 10203. CONSTRUCTION.**

"Nothing in this part shall be construed to prohibit a recipient of funds under this part from serving gifted and talented students simultaneously with students with similar educational needs, in the same educational settings where appropriate.

**"SEC. 10204. AUTHORIZED PROGRAMS.**

"(a) **ESTABLISHMENT OF PROGRAM.**—

"(1) **IN GENERAL.**—From the sums appropriated under section 10207 in any fiscal year the Secretary (after consultation with experts in the field of the education of gifted and talented students) shall make grants to or enter into contracts with State educational agencies, local educational agencies, institutions of higher education, or other public agencies and private agencies and organizations (including Indian tribes and Indian organizations (as such terms are defined by the Indian Self-Determination and Education Assistance Act) and Native Hawaiian organizations) to assist such agencies, institutions, and organizations which submit applications in carrying out programs or projects authorized by this part that are designed to meet the educational needs of gifted and talented students, including the training of personnel in the education of gifted and talented students and in the use, where appropriate, of gifted and talented services, materials, and methods for all students.

"(2) **APPLICATION.**—Each entity desiring assistance under this part shall submit an application to the Secretary at such time, in such manner, and containing such information as the

Secretary may reasonably require. Each such application shall describe how—

"(A) the proposed gifted and talented services, materials, and methods can be adapted, if appropriate, for use by all students; and

"(B) the proposed programs can be evaluated.

"(b) **USES OF FUNDS.**—Programs and projects assisted under this section may include—

"(1) professional development (including fellowships) for personnel (including leadership personnel) involved in the education of gifted and talented students;

"(2) establishment and operation of model projects and exemplary programs for serving gifted and talented students, including innovative methods for identifying and educating students who may not be served by traditional gifted and talented programs, summer programs, mentoring programs, service learning programs, and cooperative programs involving business, industry, and education;

"(3) training of personnel and parents involved in gifted and talented programs with respect to the impact of gender role socialization on the educational needs of gifted and talented children and in gender equitable education methods, techniques and practices;

"(4) implementing innovative strategies, such as cooperative learning, peer tutoring and service learning;

"(5) strengthening the capability of State educational agencies and institutions of higher education to provide leadership and assistance to local educational agencies and nonprofit private schools in the planning, operation, and improvement of programs for the identification and education of gifted and talented students and the appropriate use of gifted and talented programs and methods to serve all students;

"(6) programs of technical assistance and information dissemination, including how gifted and talented programs and methods, where appropriate, may be adapted for use by all students; and

"(7) carrying out—

"(A) research on methods and techniques for identifying and teaching gifted and talented students, and for using gifted and talented programs and methods to serve all students; and

"(B) program evaluations, surveys, and the collection, analysis, and development of information needed to accomplish the purposes of this part.

"(c) **ESTABLISHMENT OF NATIONAL CENTER.**—

"(1) **IN GENERAL.**—The Secretary (after consultation with experts in the field of the education of gifted and talented students) shall establish a National Center for Research and Development in the Education of Gifted and Talented Children and Youth through grants to or contracts with one or more institution of higher education or State educational agency, or a combination or consortium of such institutions and agencies, for the purpose of carrying out activities described in paragraph (7) of subsection (b).

"(2) **DIRECTOR.**—Such National Center shall have a Director. The Secretary may authorize the Director to carry out such functions of the National Center as may be agreed upon through arrangements with other institutions of higher education, State or local educational agencies, or other public or private agencies and organizations.

"(d) **LIMITATION.**—Not more than 30 percent of the funds available in any fiscal year to carry out the programs and projects authorized by this section may be used to conduct activities pursuant to subsections (b)(7) or (c).

"(e) **COORDINATION.**—Research activities supported under this section—

"(1) shall be carried out in consultation with the Office of Educational Research and Improvement to ensure that such activities are coordinated with and enhance the research and

development activities supported by such Office; and

"(2) may include collaborative research activities which are jointly funded and carried out with such Office.

**"SEC. 10205. PROGRAM PRIORITIES.**

"(a) GENERAL PRIORITY.—In the administration of this part the Secretary shall give highest priority—

"(1) to the identification of and the provision of services to gifted and talented students who may not be identified and served through traditional assessment methods (including economically disadvantaged individuals, individuals of limited-English proficiency, and individuals with disabilities); and

"(2) to programs and projects designed to develop or improve the capability of schools in an entire State or region of the Nation through cooperative efforts and participation of State and local educational agencies, institutions of higher education, and other public and private agencies and organizations (including business, industry, and labor), to plan, conduct, and improve programs for the identification of and service to gifted and talented students, such as mentoring and apprenticeship programs.

"(b) SERVICE PRIORITY.—In approving applications for assistance under section 10204(a)(2), the Secretary shall assure that in each fiscal year at least one-half of the applications approved under such section address the priority described in subsection (a)(1).

**"SEC. 10206. GENERAL PROVISIONS.**

"(a) PARTICIPATION OF PRIVATE SCHOOL CHILDREN AND TEACHERS.—In making grants and entering into contracts under this part, the Secretary shall ensure, where appropriate, that provision is made for the equitable participation of students and teachers in private nonprofit elementary and secondary schools, including the participation of teachers and other personnel in professional development programs serving such children.

"(b) REVIEW, DISSEMINATION, AND EVALUATION.—The Secretary shall—

"(1) use a peer review process in reviewing applications under this part;

"(2) ensure that information on the activities and results of programs and projects funded under this part is disseminated to appropriate State and local agencies and other appropriate organizations, including nonprofit private organizations; and

"(3) evaluate the effectiveness of programs under this part in accordance with section 14701, both in terms of the impact on students traditionally served in separate gifted and talented programs and on other students, and submit the results of such evaluation to Congress not later than January 1, 1998.

"(c) PROGRAM OPERATIONS.—The Secretary shall ensure that the programs under this part are administered within the Department by a person who has recognized professional qualifications and experience in the field of the education of gifted and talented students and who shall—

"(1) administer the programs authorized by this part;

"(2) coordinate all programs for gifted and talented students administered by the Department;

"(3) serve as a focal point of national leadership and information on the educational needs of gifted and talented students and the availability of educational services and programs designed to meet such needs; and

"(4) assist the Assistant Secretary of the Office of Educational Research and Improvement in identifying research priorities which reflect the needs of gifted and talented students.

**"SEC. 10207. AUTHORIZATION OF APPROPRIATIONS.**

"There are authorized to be appropriated \$10,000,000 for fiscal year 1995 and such sums as

may be necessary for each of the four succeeding fiscal years to carry out the provisions of this part.

**"PART C—PUBLIC CHARTER SCHOOLS**

**"SEC. 10301. FINDINGS AND PURPOSE.**

"(a) FINDINGS.—The Congress finds that—

"(1) enhancement of parent and student choices among public schools can assist in promoting comprehensive educational reform and give more students the opportunity to learn to challenging State content standards and challenging State student performance standards, if sufficiently diverse and high-quality choices, and genuine opportunities to take advantage of such choices, are available to all students;

"(2) useful examples of such choices can come from States and communities that experiment with methods of offering teachers and other educators, parents, and other members of the public the opportunity to design and implement new public schools and to transform existing public schools;

"(3) charter schools are a mechanism for testing a variety of educational approaches and should, therefore, be exempted from restrictive rules and regulations if the leadership of such schools commits to attaining specific and ambitious educational results for educationally disadvantaged students consistent with challenging State content standards and challenging State student performance standards for all students;

"(4) charter schools, as such schools have been implemented in a few States, can embody the necessary mixture of enhanced choice, exemption from restrictive regulations, and a focus on learning gains;

"(5) charter schools, including charter schools that are schools-within-schools, can help reduce school size, which reduction can have a significant effect on student achievement;

"(6) the Federal Government should test, evaluate, and disseminate information on a variety of charter school models in order to help demonstrate the benefits of this promising educational reform; and

"(7) there is a strong documented need for cash flow assistance to charter schools that are starting up, because State and local operating revenue streams are not immediately available.

"(b) PURPOSE.—It is the purpose of this part to increase national understanding of the charter schools model by—

"(1) providing financial assistance for the design and initial implementation of charter schools; and

"(2) evaluating the effects of such schools, including the effects on students, student achievement, staff, and parents.

**"SEC. 10302. PROGRAM AUTHORIZED.**

"(a) IN GENERAL.—The Secretary may award grants to State educational agencies having applications approved pursuant to section 10303 to enable such agencies to conduct a charter school grant program in accordance with this part.

"(b) SPECIAL RULE.—If a State educational agency elects not to participate in the program authorized by this part or does not have an application approved under section 10303, the Secretary may award a grant to an eligible applicant that serves such State and has an application approved pursuant to section 10303(c).

**"(c) PROGRAM PERIODS.—**

"(1) GRANTS TO STATES.—Grants awarded to State educational agencies under this part shall be awarded for a period of not more than 3 years.

"(2) GRANTS TO ELIGIBLE APPLICANTS.—Grants awarded by the Secretary to eligible applicants or subgrants awarded by State educational agencies to eligible applicants under this part shall be awarded for a period of not more than 3 years, of which the eligible applicant may use—

"(A) not more than 18 months for planning and program design; and

"(B) not more than 2 years for the initial implementation of a charter school.

"(d) LIMITATION.—The Secretary shall not award more than one grant and State educational agencies shall not award more than one subgrant under this part to support a particular charter school.

**"SEC. 10303. APPLICATIONS.**

"(a) APPLICATIONS FROM STATE AGENCIES.—Each State educational agency desiring a grant from the Secretary under this part shall submit to the Secretary an application at such time, in such manner, and containing or accompanied by such information as the Secretary may require.

"(b) CONTENTS OF A STATE EDUCATIONAL AGENCY APPLICATION.—Each application submitted pursuant to subsection (a) shall—

"(1) describe the objectives of the State educational agency's charter school grant program and a description of how such objectives will be fulfilled, including steps taken by the State educational agency to inform teachers, parents, and communities of the State educational agency's charter school grant program;

"(2) contain assurances that the State educational agency will require each eligible applicant desiring to receive a subgrant to submit an application to the State educational agency containing—

"(A) a description of the educational program to be implemented by the proposed charter school, including—

"(i) how the program will enable all students to meet challenging State student performance standards;

"(ii) the grade levels or ages of children to be served; and

"(iii) the curriculum and instructional practices to be used;

"(B) a description of how the charter school will be managed;

"(C) a description of—

"(i) the objectives of the charter school; and

"(ii) the methods by which the charter school will determine its progress toward achieving those objectives;

"(D) a description of the administrative relationship between the charter school and the authorized public chartering agency;

"(E) a description of how parents and other members of the community will be involved in the design and implementation of the charter school;

"(F) a description of how the authorized public chartering agency will provide for continued operation of the school once the Federal grant has expired, if such agency determines that the school has met the objectives described in subparagraph (C)(i);

"(G) a request and justification for waivers of any Federal statutory or regulatory provisions that the applicant believes are necessary for the successful operation of the charter school, and a description of any State or local rules, generally applicable to public schools, that will be waived for, or otherwise not apply to, the school;

"(H) a description of how the subgrant funds or grant funds, as appropriate, will be used, including a description of how such funds will be used in conjunction with other Federal programs administered by the Secretary;

"(I) a description of how students in the community will be—

"(i) informed about the charter school; and

"(ii) given an equal opportunity to attend the charter school;

"(J) an assurance that the eligible applicant will annually provide the Secretary and the State educational agency such information as may be required to determine if the charter school is making satisfactory progress toward

achieving the objectives described in subparagraph (C)(i);

"(K) an assurance that the applicant will cooperate with the Secretary and the State educational agency in evaluating the program assisted under this part; and

"(L) such other information and assurances as the Secretary and the State educational agency may require.

"(c) **CONTENTS OF ELIGIBLE APPLICANT APPLICATION.**—Each eligible applicant desiring a grant pursuant to section 10302(e)(1) or 10302(b) shall submit an application to the State educational agency or Secretary, respectively, at such time, in such manner, and accompanied by such information as the State educational agency or Secretary, respectively, may reasonably require.

"(d) **CONTENTS OF APPLICATION.**—Each application submitted pursuant to subsection (c) shall contain—

"(1) the information and assurances described in subparagraphs (A) through (L) of subsection (b)(3), except that for purposes of this subsection subparagraphs (I), (J), and (K) of such subsection shall be applied by striking "and the State educational agency" each place such term appears; and

"(2) contain assurances that the State educational agency—

"(A) will grant, or will obtain, waivers of State statutory or regulatory requirements; and

"(B) will assist each subgrantee in the State in receiving a waiver under section 10304(e);

**"SEC. 10304. ADMINISTRATION.**

"(a) **SELECTION CRITERIA FOR STATE EDUCATIONAL AGENCIES.**—The Secretary shall award grants to State educational agencies under this part on the basis of the quality of the applications submitted under section 10303(b), after taking into consideration such factors as—

"(1) the contribution that the charter schools grant program will make to assisting educationally disadvantaged and other students to achieving State content standards and State student performance standards and, in general, a State's education improvement plan;

"(2) the degree of flexibility afforded by the State educational agency to charter schools under the State's charter schools law;

"(3) the ambitiousness of the objectives for the State charter school grant program;

"(4) the quality of the strategy for assessing achievement of those objectives; and

"(5) the likelihood that the charter school grant program will meet those objectives and improve educational results for students.

"(b) **SELECTION CRITERIA FOR ELIGIBLE APPLICANTS.**—The Secretary shall award grants to eligible applicants under this part on the basis of the quality of the applications submitted under section 10303(c), after taking into consideration such factors as—

"(1) the quality of the proposed curriculum and instructional practices;

"(2) the degree of flexibility afforded by the State educational agency and, if applicable, the local educational agency to the charter school;

"(3) the extent of community support for the application;

"(4) the ambitiousness of the objectives for the charter school;

"(5) the quality of the strategy for assessing achievement of those objectives; and

"(6) the likelihood that the charter school will meet those objectives and improve educational results for students.

"(c) **PEER REVIEW.**—The Secretary, and each State educational agency receiving a grant under this part, shall use a peer review process to review applications for assistance under this part.

"(d) **DIVERSITY OF PROJECTS.**—The Secretary and each State educational agency receiving a

grant under this part, shall award subgrants under this part in a manner that, to the extent possible, ensures that such grants and subgrants—

"(1) are distributed throughout different areas of the Nation and each State, including urban and rural areas; and

"(2) will assist charter schools representing a variety of educational approaches, such as approaches designed to reduce school size.

"(e) **WAIVERS.**—The Secretary may waive any statutory or regulatory requirement over which the Secretary exercises administrative authority except any such requirement relating to the elements of a charter school described in section 10306(1), if—

"(1) the waiver is requested in an approved application under this part; and

"(2) the Secretary determines that granting such a waiver will promote the purpose of this part.

"(f) **USE OF FUNDS.**—

"(1) **STATE EDUCATIONAL AGENCIES.**—Each State educational agency receiving a grant under this part shall use such grant funds to award subgrants to one or more eligible applicants in the State to enable such applicant to plan and implement a charter school in accordance with this part.

"(2) **ELIGIBLE APPLICANTS.**—Each eligible applicant receiving funds from the Secretary or a State educational agency shall use such funds to plan and implement a charter school in accordance with this part.

"(3) **ALLOWABLE ACTIVITIES.**—An eligible applicant receiving a grant or subgrant under this part may use the grant or subgrant funds only for—

"(A) post-award planning and design of the educational program, which may include—

"(i) refinement of the desired educational results and of the methods for measuring progress toward achieving those results; and

"(ii) professional development of teachers and other staff who will work in the charter school; and

"(B) initial implementation of the charter school, which may include—

"(i) informing the community about the school;

"(ii) acquiring necessary equipment and educational materials and supplies;

"(iii) acquiring or developing curriculum materials; and

"(iv) other initial operational costs that cannot be met from State or local sources.

"(4) **ADMINISTRATIVE EXPENSES.**—Each State educational agency receiving a grant pursuant to this part may reserve not more than 5 percent of such grant funds for administrative expenses associated with the charter school grant program assisted under this part.

"(5) **REVOLVING LOAN FUNDS.**—Each State educational agency receiving a grant pursuant to this part may reserve not more than 20 percent of the grant amount for the establishment of a revolving loan fund. Such fund may be used to make loans to eligible applicants that have received a subgrant under this part, under such terms as may be determined by the State educational agency, for the initial operation of the charter school grant program of such recipient until such time as the recipient begins receiving ongoing operational support from State or local financing sources.

**"SEC. 10305. NATIONAL ACTIVITIES.**

"The Secretary may reserve not more than ten percent of the funds available to carry out this part for any fiscal year for—

"(1) peer review of applications under section 10304(c);

"(2) an evaluation of the impact of charter schools on student achievement, including those assisted under this part; and

"(3) other activities designed to enhance the success of the activities assisted under this part, such as—

"(A) development and dissemination of model State charter school laws and model contracts or other means of authorizing and monitoring the performance of charter schools; and

"(B) collection and dissemination of information on successful charter schools.

**"SEC. 10306. DEFINITIONS.**

"As used in this part:

"(1) The term 'charter school' means a public school that—

"(A) in accordance with an enabling State or local rules that inhibit the flexible operation and management of public schools, but not from any rules relating to the other requirements of this paragraph;

"(B) is created by a developer as a public school, or is adapted by a developer from an existing public school, and is operated under public supervision and direction;

"(C) operates in pursuit of a specific set of educational objectives determined by the school's developer and agreed to by the authorized public chartering agency;

"(D) provides a program of elementary or secondary education, or both;

"(E) is nonsectarian in its programs, admissions policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious institution;

"(F) does not charge tuition;

"(G) complies with the Age Discrimination Act of 1975, title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, and part B of the Individuals with Disabilities Education Act;

"(H) admits students on the basis of a lottery, if more students apply for admission than can be accommodated;

"(I) agrees to comply with the same Federal and State audit requirements as do other elementary and secondary schools in the State, unless such requirements are specifically waived for the purpose of this program;

"(J) meets all applicable Federal, State, and local health and safety requirements; and

"(K) operates in accordance with State law.

"(2) The term 'developer' means an individual or group of individuals (including a public or private nonprofit organization), which may include teachers, administrators and other school staff, parents, or other members of the local community in which a charter school project will be carried out.

"(3) The term 'eligible applicant' means an authorized public chartering agency participating in a partnership with a developer to establish a charter school in accordance with this part.

"(4) The term 'authorized public chartering agency' means a State educational agency, local educational agency, or other public entity that has the authority pursuant to State law and approved by the Secretary to authorize or approve a charter school.

**"SEC. 10307. AUTHORIZATION OF APPROPRIATIONS.**

"For the purpose of carrying out this part, there are authorized to be appropriated \$15,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

**"PART D—ARTS IN EDUCATION**

**"Subpart 1—Arts Education**

**"SEC. 10401. SUPPORT FOR ARTS EDUCATION.**

"(a) **FINDINGS.**—The Congress finds that—

"(1) the arts are forms of understanding and ways of knowing that are fundamentally important to education;

"(2) the arts are important to excellent education and to effective school reform;

"(3) the most significant contribution of the arts to education reform is the transformation of teaching and learning;

"(4) such transformation is best realized in the context of comprehensive, systemic education reform;

"(5) demonstrated competency in the arts for American students is among the National Education Goals;

"(6) participation in performing arts activities has proven to be an effective strategy for promoting the inclusion of persons with disabilities in mainstream settings;

"(7) opportunities in the arts have enabled persons of all ages with disabilities to participate more fully in school and community activities;

"(8) the arts can motivate at-risk students to stay in school and become active participants in the educational process; and

"(9) arts education should be an integral part of the elementary and secondary school curriculum.

"(b) PURPOSES.—The purposes of this subpart are to—

"(1) support systemic education reform by strengthening arts education as an integral part of the elementary and secondary school curriculum;

"(2) help ensure that all students have the opportunity to learn to challenging State content standards and challenging State student performance standards in the arts; and

"(3) support the national effort to enable all students to demonstrate competence in the arts in accordance with the National Education Goals.

"(c) ELIGIBLE RECIPIENTS.—In order to carry out the purposes of this subpart, the Secretary is authorized to award grants to, or enter into contracts or cooperative agreements with—

"(1) State educational agencies;

"(2) local educational agencies;

"(3) institutions of higher education;

"(4) museums and other cultural institutions; and

"(5) other public and private agencies, institutions, and organizations.

"(d) AUTHORIZED ACTIVITIES.—Funds under this subpart may be used for—

"(1) research on arts education;

"(2) the development of, and dissemination of information about, model arts education programs;

"(3) the development of model arts education assessments based on high standards;

"(4) the development and implementation of curriculum frameworks for arts education;

"(5) the development of model preservice and inservice professional development programs for arts educators and other instructional staff;

"(6) supporting collaborative activities with other Federal agencies or institutions involved in arts education, such as the National Endowment for the Arts, the Institute of Museum Services, the John F. Kennedy Center for the Performing Arts, Very Special Arts, and the National Gallery of Art;

"(7) supporting model projects and programs in the performing arts for children and youth through arrangements made with the John F. Kennedy Center for the Performing Arts;

"(8) supporting model projects and programs by Very Special Arts which assure the participation in mainstream settings in arts and education programs of individuals with disabilities;

"(9) supporting model projects and programs to integrate arts education into the regular elementary and secondary school curriculum; and

"(10) other activities that further the purposes of this subpart.

"(e) COORDINATION.—

"(1) IN GENERAL.—A recipient of funds under this subpart shall, to the extent possible, coordinate projects assisted under this subpart with appropriate activities of public and private cultural agencies, institutions, and organizations, including museums, arts education associations, libraries, and theaters.

"(2) SPECIAL RULE.—In carrying out this subpart, the Secretary shall coordinate with the National Endowment for the Arts, the Institute of Museum Services, the John F. Kennedy Center for the Performing Arts, Very Special Arts, and the National Gallery of Art.

"(f) AUTHORIZATION.—

"(1) IN GENERAL.—For the purpose of carrying out this subpart, there are authorized to be appropriated \$11,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(2) SPECIAL RULE.—If the amount appropriated under paragraph (1) for any fiscal year is \$9,000,000 or less, then such amount shall only be available to carry out the activities described in paragraphs (7) and (8) of subsection (d).

#### "Subpart 2—Cultural Partnerships for At-Risk Children and Youth

##### "SEC. 10411. FINDINGS AND PURPOSE.

"(a) FINDINGS.—The Congress finds:

"(1) With local school budget cuts there are inadequate arts and cultural programs available for children and youth in schools, especially at the elementary school level.

"(2) The arts promote progress in academic subjects as shown by research conducted by the National Endowment for the Arts.

"(3) Children and youth who receive instruction in the arts and humanities, or who are involved in cultural activities, remain in school longer and are more successful than children who do not receive such instruction.

"(4) Learning in the arts and humanities promotes progress in other academic subjects, and generates positive self-esteem and a greater sense of accomplishment in young people.

"(5) School-university and school-cultural institution partnerships that upgrade teacher training in the arts and humanities have significantly contributed to improved instruction and achievement levels of school-aged children.

"(6) Museum outreach, cultural activities and informal education for at-risk children and youth have contributed significantly to the educational achievement and enhanced interest in learning of at-risk children and youth.

"(7) The Goals 2000: Educate America Act, other legislation and local, State and national resources support the integration of the arts and humanities into the regular curriculum and school day for all children.

"(8) While all children benefit from instruction in the arts and the humanities, at-risk children and youth have a special, additional need for arts and cultural programs both in school and after school.

"(b) PURPOSE.—The purpose of this subpart is to make demonstration grants to eligible entities to improve the educational performance and future potential of at-risk children and youth by providing comprehensive and coordinated educational and cultural services.

##### "SEC. 10412. PROGRAM AUTHORIZED.

"(a) IN GENERAL.—The Secretary is authorized to award grants to eligible entities to pay the Federal share of the costs of the activities described in section 10413.

"(b) SPECIAL REQUIREMENTS.—

"(1) IN GENERAL.—The Secretary shall award grants under this subpart only to programs designed to—

"(A) promote and enhance educational and cultural activities;

"(B) provide multi-year services to at-risk children and youth and to integrate community cultural resources into in-school and after-school educational programs;

"(C) provide integration of community cultural resources into the regular curriculum and school day;

"(D) focus school and cultural resources in the community on coordinated cultural services to address the needs of at-risk children and youth;

"(E) provide effective cultural programs to facilitate the transition from preschool programs to elementary school programs, including programs under the Head Start Act and part H of the Individuals with Disabilities Education Act;

"(F) facilitate school-to-work transition from secondary schools and alternative schools to job training, higher education and employment through educational programs and activities that utilize school resources;

"(G) increase parental and community involvement in the educational, social, and cultural development of at-risk children and youth; or

"(H)(i) develop programs and strategies that provide high-quality coordinated educational and cultural services; and

"(ii) provide a model to replicate such services in other schools and communities.

"(2) PARTNERSHIP.—An interagency partnership comprised of the Secretary of Education, the Chairman of the National Endowment for the Humanities, the Chairman of the National Endowment for the Arts, and the Director of the Institute of Museum Services, or their designees, shall establish criteria and procedures for awarding grants, including the establishment of panels to review the applications, and shall administer the grants program authorized by this section. The Secretary shall publish such criteria and procedures in the Federal Register.

"(3) COORDINATION.—Grants may only be awarded under this subpart to eligible entities that agree to coordinate activities carried out under other Federal, State, and local grants, received by the members of the partnership for purposes and target populations described in this subpart, into an integrated service delivery system located at a school, cultural, or other community-based site accessible to and utilized by at-risk youth.

"(4) ELIGIBLE ENTITIES.—For purposes of this subpart, the term 'eligible entity' means a partnership between—

"(A) a local educational agency or an individual school that is eligible to participate in a schoolwide program under section 1114; and

"(B) at least one institution of higher education, museum, local arts agency, or cultural entity that is accessible to individuals within the school district of such local educational agency or school, and that has a history of providing quality services to the community, which may include—

"(i) nonprofit institutions of higher education, museums, libraries, performing, presenting and exhibiting arts organizations, literary arts organizations, State and local arts organizations, cultural institutions, and zoological and botanical organizations; or

"(ii) private for-profit entities with a history of training children and youth in the arts.

"(5) GEOGRAPHIC DISTRIBUTION.—In awarding grants under this subpart the Secretary, to the extent feasible, shall ensure an equitable geographic distribution of such grants.

"(6) DURATION.—Grants made under this subpart may be renewable for a maximum of five years if the Secretary determines that the eligible recipient has made satisfactory progress toward the achievement of the program objectives described in the application.

"(7) MODELS.—The Secretary, in consultation with the Chairman of the National Endowment for the Humanities, the Chairman of the National Endowment for the Arts and the Director of the Institute of Museum Services, or their

designees, shall submit successful models under this title to the National Diffusion Network for review.

"(c) TARGET POPULATION.—To be eligible for a grant under this subpart, an eligible entity shall serve—

"(1) students enrolled in schools participating in a schoolwide program under section 1114 and the families of such students to the extent practicable;

"(2) out-of-school children and youth at risk of disadvantages resulting from teenage parenting, substance abuse, recent migration, disability, limited-English proficiency, illiteracy, being the child of a teenage parent, living in a single parent household, or dropping out of school; or

"(3) any combination of in-school and out-of-school at-risk children and youth.

#### "SEC. 10413. AUTHORIZED ACTIVITIES.

"(a) IN GENERAL.—Grants awarded under this subpart may be used—

"(1) to plan, develop, acquire, expand, and improve school-based or community-based coordinated educational and cultural programs to strengthen the educational performance and future potential of in-school or out-of-school at-risk children and youth through grants, cooperative agreements, contracts for services, or administrative coordination;

"(2) to provide at-risk students with integrated cultural activities designed to develop a love of learning that fosters the smooth transition of preschool children to elementary school;

"(3) to design collaborative cultural activities for students in secondary or alternative schools that ensure the smooth transition to job training, higher education, or full employment;

"(4) to provide child care for children of at-risk students who would not otherwise be able to participate in the program;

"(5) to provide transportation necessary for participation in the program;

"(6) to work with existing school personnel to develop curriculum materials and programs in the arts;

"(7) to work with existing school personnel on staff development activities that encourage the integration of the arts into the curriculum;

"(8) for stipends that allow local artists to work with at-risk children and youth in schools;

"(9) for training individuals who are not trained to work with children and youth;

"(10) for cultural programs that encourage the active participation of parents in the education of their children;

"(11) for programs that use the arts and culture to reform current school practices, including lengthening the school day or academic year;

"(12) for equipment or supplies that the Secretary determines appropriate; and

"(13) for evaluation, administration, and supervision.

"(b) PLANNING GRANTS.—

"(1) APPLICATION.—An eligible entity may submit an application to the Secretary for a planning grant for an amount not to exceed \$50,000. Such grants shall be for periods of not more than one year.

"(2) LIMIT ON PLANNING GRANTS.—Not more than 10 percent of the amounts appropriated in each fiscal year under this subpart shall be used for grants under this subsection, and an eligible entity may receive not more than one such planning grant.

"(c) GENERAL PROVISIONS.—

"(1) IN GENERAL.—Each eligible entity desiring a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

"(A) describe the cultural entity or entities that will participate in the partnership;

"(B) describe the target population to be served;

"(C) describe the services to be provided;

"(D) describe a plan for evaluating the success of the program;

"(E) in the case of each local educational agency or school participating in the eligible recipient partnership, describe how the activities assisted under this subpart will be perpetuated beyond the duration of the grant;

"(F) describe the manner in which the eligible entity will improve the educational achievement or future potential of at-risk youth through more effective coordination of cultural services in the community;

"(G) describe the overall and operational goals of the program;

"(H) describe the nature and location of all planned sites where services will be delivered and a description of services which will be provided at each site; and

"(I) describe training that will be provided to individuals who are not trained to work with children and youth, and how teachers will be involved.

#### "SEC. 10414. PAYMENTS; AMOUNTS OF AWARD; COST SHARE; LIMITATIONS.

"(a) PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall pay to each eligible recipient having an application approved under section 10413(c) the Federal share of the cost of the activities described in the application.

"(2) SPECIAL RULE.—(A) Grants awarded under this subpart shall be of sufficient size, scope, and quality to be effective.

"(B) The Secretary shall award grants under this subpart so as to ensure nonduplication of services provided by grant recipients and services provided by—

"(i) the National Endowment for the Humanities;

"(ii) the National Endowment for the Arts; and

"(iii) the Institute of Museum Services.

"(b) COST SHARE.—

"(1) FEDERAL SHARE.—The Federal share of a grant under this subpart shall be 80 percent of the cost of carrying out the activities described in the application.

"(2) NON-FEDERAL SHARE.—The non-Federal share of a grant under this subpart shall be 20 percent of the cost of carrying out the activities described in the application and may be in cash or in kind, fairly evaluated, including the provision of equipment, services, or facilities.

"(c) LIMITATIONS.—

"(1) NONINSTRUCTIONAL SERVICES.—Not more than 25 percent of the grant funds provided in any fiscal year under this subpart may be used for noninstructional activities such as the activities described in paragraphs (4), (5), and (12) of section 10413(a).

"(2) SUPPLEMENT AND NOT SUPPLANT.—Grant funds awarded under this part shall be used to supplement not supplant the amount of funds made available from non-Federal sources, for the activities assisted under this subpart, in amounts that exceed the amounts expended for such activities in the year preceding the year for which the grant is awarded.

"(3) ADMINISTRATIVE COSTS.—(A) The Secretary may reserve not more than five percent of the grant funds received under this subpart in each fiscal year for the costs of administration.

"(B) Each eligible recipient may reserve not more than 5 percent of any grant funds received under this subpart in each fiscal year for the costs of administration.

#### "SEC. 10415. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subpart, \$45,000,000 for fiscal year

1995, and such sums as may be necessary for each of the four succeeding fiscal years.

#### "PART E—INEXPENSIVE BOOK DISTRIBUTION PROGRAM

#### "SEC. 10501. INEXPENSIVE BOOK DISTRIBUTION PROGRAM FOR READING MOTIVATION.

"(a) AUTHORIZATION.—The Secretary is authorized to enter into a contract with Reading is Fundamental (RIF) (hereafter in this section referred to as 'the contractor') to support and promote programs, which include the distribution of inexpensive books to students, that motivate children to read.

"(b) REQUIREMENTS OF CONTRACT.—Any contract entered into under subsection (a) shall—

"(1) provide that the contractor will enter into subcontracts with local private nonprofit groups or organizations, or with public agencies, under which each subcontractor will agree to establish, operate, and provide the non-Federal share of the cost of reading motivation programs that include the distribution of books, by gift, to the extent feasible, or loan, to children from birth through secondary school age, including those in family literacy programs;

"(2) provide that funds made available to subcontractors will be used only to pay the Federal share of the cost of such programs;

"(3) provide that in selecting subcontractors for initial funding, the contractor will give priority to programs that will serve a substantial number or percentage of children with special needs, such as—

"(A) low-income children, particularly in high-poverty areas;

"(B) children at risk of school failure;

"(C) children with disabilities;

"(D) foster children;

"(E) homeless children;

"(F) migrant children;

"(G) children without access to libraries;

"(H) institutionalized or incarcerated children; and

"(I) children whose parents are institutionalized or incarcerated;

"(4) provide that the contractor will provide such technical assistance to subcontractors as may be necessary to carry out the purpose of this section;

"(5) provide that the contractor will annually report to the Secretary the number of, and describe, programs funded under paragraph (3); and

"(6) include such other terms and conditions as the Secretary determines to be appropriate to ensure the effectiveness of such programs.

"(c) RESTRICTION ON PAYMENTS.—The Secretary shall make no payment of the Federal share of the cost of acquiring and distributing books under any contract under this section unless the Secretary determines that the contractor or subcontractor, as the case may be, has made arrangements with book publishers or distributors to obtain books at discounts at least as favorable as discounts that are customarily given by such publisher or distributor for book purchases made under similar circumstances in the absence of Federal assistance.

"(d) DEFINITION OF 'FEDERAL SHARE'.—For the purpose of this section, the term 'Federal share' means, with respect to the cost to a subcontractor of purchasing books to be paid under this section, 75 percent of such costs to the subcontractor, except that the Federal share for programs serving children of migrant or seasonal farmworkers shall be 100 percent of such costs to the subcontractor.

"(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated \$10,300,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

**"PART F—CIVIC EDUCATION"****"SEC. 10601. INSTRUCTION ON THE HISTORY AND PRINCIPLES OF DEMOCRACY IN THE UNITED STATES."****"(a) GENERAL AUTHORITY.—"**

**"(1) PROGRAM ESTABLISHED.—**(A) The Secretary is authorized to carry out a program to enhance the attainment of the third and sixth National Education Goals by educating students about the history and principles of the Constitution of the United States, including the Bill of Rights, and to foster civic competence and responsibility.

**"(B)** Such program shall be known as 'We the People . . . The Citizen and the Constitution'.

**"(2) EDUCATIONAL ACTIVITIES.—**The program required by paragraph (1) shall—

**"(A)** continue and expand the educational activities of the 'We the People . . . The Citizen and the Constitution' program administered by the Center for Civic Education; and

**"(B)** enhance student attainment of challenging content standards in civics and government.

**"(3) CONTRACT OR GRANT AUTHORIZED.—**The Secretary is authorized to award a grant or enter into a contract with the Center for Civic Education to carry out the program described in paragraph (1).

**"(b) PROGRAM CONTENT.—**The education program authorized by this section shall provide—

**"(1)** a course of instruction on the basic principles of our Nation's constitutional democracy and the history of the Constitution and the Bill of Rights;

**"(2)** at the request of a participating school, school and community simulated congressional hearings following the course of study; and

**"(3)** an annual national competition of simulated congressional hearings for secondary students who wish to participate in such program.

**"(c) AVAILABILITY OF PROGRAM.—**The education program authorized by this section shall be made available to public and private elementary and secondary schools in the 435 congressional districts, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the District of Columbia.

**"(d) SPECIAL RULE.—**After the provisions of subsection (b) have been implemented, funds provided under this section may be used for—

**"(1)** advanced training of teachers about the United States Constitution and the political system the United States created; or

**"(2)** a course of instruction at the middle school level on the roles of State and local governments in the Federal system established by the Constitution, which course shall provide for—

**"(A)** optional school and community simulated State legislative hearings;

**"(B)** an annual competition of simulated legislative hearings at the State legislative district, State, and national levels for middle school students who wish to participate in the program; and

**"(C)** participation by public and private middle schools in the 50 States, the District of Columbia, Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands.

**"SEC. 10602. INSTRUCTION IN CIVICS, GOVERNMENT, AND THE LAW."**

**"(a) PROGRAM ESTABLISHED.—**The Secretary is authorized to carry out a program of awarding grants and contracts to assist State and local educational agencies and other public and private nonprofit agencies, organizations, and institutions to enhance—

**"(1)** attainment by students of challenging State content standards and challenging State student performance standards in civics, government, and the law; and

**"(2)** attainment by the Nation of the third and the sixth National Education Goals.

**"(b) AUTHORIZED ACTIVITIES.—**Assistance under this section may support new and ongoing programs in elementary and secondary schools that provide for—

**"(1)** the development and implementation of curricular programs that enhance student understanding of—

**"(A)** the values and principles which underlie, and the institutions and processes which comprise, our Nation's system of government;

**"(B)** the role of law in our constitutional democracy, including activities to promote—

**"(i)** legal literacy;

**"(ii)** a dedication by students to the use of nonviolent means of conflict resolution such as arbitration, mediation, negotiation, trials, and appellate hearings; and

**"(iii)** respect for cultural diversity and acceptance of cultural differences; and

**"(C)** the rights and responsibilities of citizenship;

**"(2)** professional development for teachers, including preservice and inservice training;

**"(3)** outside-the-classroom learning experiences for students, including community service activities;

**"(4)** the active participation of community leaders, from the public and private sectors, in the schools; and

**"(5)** the provision of technical assistance to State and local educational agencies and other institutions and organizations working to further the progress of the Nation in attaining the third and sixth National Education Goals regarding civics and government.

**"(c) APPLICATIONS, PEER REVIEW AND PRIORITY.—"**

**"(1) SUBMISSION OF APPLICATIONS.—**A State or local educational agency, other public or private nonprofit agency, organization, or institution that desires to receive a grant or enter into a contract under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

**"(2) PEER REVIEW.—**(A) The Secretary shall convene a panel of individuals for purpose of reviewing and rating applications submitted under paragraph (1).

**"(B)** Such individuals shall have experience with education programs in civics, government, and the law.

**"(3) PRIORITY.—**In awarding grants or awarding contracts under this section, the Secretary shall give priority consideration to applications which propose the operation of statewide programs.

**"(d) DURATION OF GRANTS AND EXCEPTION.—"**

**"(1) DURATION.—**Except as provided in paragraph (2), the Secretary shall award grants and contracts under this section for periods of two or three years.

**"(2) EXCEPTION.—**The Secretary may award a grant or a contract under this section for a period of less than 2 years if the Secretary determines that special circumstances exist which warrant a 1-year grant or contract award.

**"SEC. 10603. REPORT; AUTHORIZATION OF APPROPRIATIONS."**

**"(a) REPORT.—**The Secretary shall report, on a biennial basis to the Committee on Education and Labor of the House of Representatives and to the Committee on Labor and Human Resources of the Senate regarding the distribution and use of funds authorized under this part.

**"(b) AUTHORIZATION OF APPROPRIATIONS.—"**

**"(1) GENERAL.—**There are authorized to be appropriated to carry out this part \$15,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

**"(2) ALLOCATION.—**Except as provided in paragraph (3), from the amount appropriated

under subsection (a), the Secretary shall allocate—

**"(A)** 40 percent of such amount to carry out section 10601; and

**"(B)** 60 percent of such amount to carry out section 10602.

**"(3) SPECIAL RULE.—**From funds appropriated under paragraph (1), the Secretary shall make available for fiscal year 1995 and each succeeding fiscal year thereafter for the programs under section 16101 and 16102 not less than the amount made available for fiscal year 1994 to carry out such programs under section 4609 and 1562, respectively, of this Act (as such sections were in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994).

**"PART G—ALLEN J. ELLENDER FELLOWSHIP PROGRAM"****"SEC. 10701. FINDINGS."**

**"The Congress finds as follows:**

**"(1)** It is a worthwhile goal to ensure that all students in America are prepared for responsible citizenship and that all students should have the opportunity to be involved in activities that promote and demonstrate good citizenship.

**"(2)** It is a worthwhile goal to ensure that America's educators have access to programs for the continued improvement of their professional skills.

**"(3)** Allen J. Ellender, a Senator from Louisiana and President pro tempore of the United States Senate, had a distinguished career in public service characterized by extraordinary energy and real concern for young people. Senator Ellender provided valuable support and encouragement to the Close Up Foundation, a nonpartisan, nonprofit foundation promoting knowledge and understanding of the Federal Government among young people and educators. Therefore, it is a fitting and appropriate tribute to Senator Ellender to provide fellowships in his name to students of limited economic means, the teachers who work with such students, and older Americans, so that such students, teachers, and older Americans may participate in the programs supported by the Close Up Foundation.

**"Subpart 1—Program for Middle and Secondary School Students"****"SEC. 10711. ESTABLISHMENT."**

**"(a) GENERAL AUTHORITY.—**The Secretary is authorized to make grants in accordance with the provisions of this subpart to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its programs of increasing understanding of the Federal Government among middle and secondary school students.

**"(b) USE OF FUNDS.—**Grants under this subpart shall be used only to provide financial assistance to economically disadvantaged students who participate in the program described in subsection (a). Financial assistance received pursuant to this subpart by such students shall be known as Allen J. Ellender fellowships.

**"SEC. 10712. APPLICATIONS."**

**"(a) APPLICATION REQUIRED.—**No grant under this subpart may be made except upon an application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

**"(b) CONTENTS OF APPLICATION.—**Each such application shall contain provisions to assure—

**"(1)** that fellowship grants are made to economically disadvantaged middle and secondary school students;

**"(2)** that every effort will be made to ensure the participation of students from rural and small town areas, as well as from urban areas, and that in awarding fellowships to economically disadvantaged students, special consideration will be given to the participation of students with special educational needs, including

student with disabilities, ethnic minority students, and gifted and talented students; and

"(3) the proper disbursement of the funds received under this subpart.

**"Subpart 2—Program for Middle and Secondary School Teachers**

**"SEC. 10721. ESTABLISHMENT.**

"(a) GENERAL AUTHORITY.—The Secretary is authorized to make grants in accordance with the provisions of this subpart to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its programs of teaching skills enhancement for middle and secondary school teachers.

"(b) USE OF FUNDS.—Grants under this subpart shall be used only for financial assistance to teachers who participate in the program described in subsection (a). Financial assistance received pursuant to this subpart by such individuals shall be known as Allen J. Ellender fellowships.

**"SEC. 10722. APPLICATIONS.**

"(a) APPLICATION REQUIRED.—No grant under this subpart may be made except upon an application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(b) CONTENTS OF APPLICATION.—Each such application shall contain provisions to assure—

"(1) that fellowship grants are made only to teachers who have worked with at least one student from such teacher's school who participates in the programs described in section 10711(a);

"(2) that not more than one teacher in each school participating in the programs provided for in section 10711(a) may receive a fellowship in any fiscal year; and

"(3) the proper disbursement of the funds received under this subpart.

**"Subpart 3—Programs for Recent Immigrants, Students of Migrant Parents and Older Americans**

**"SEC. 10731. ESTABLISHMENT.**

"(a) GENERAL AUTHORITY.—

"(1) IN GENERAL.—The Secretary is authorized to make grants in accordance with the provisions of this subpart to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its programs of increasing understanding of the Federal Government among economically disadvantaged older Americans, recent immigrants and students of migrant parents.

"(2) DEFINITION.—For the purpose of this subpart, the term 'older American' means an individual who has attained 55 years of age.

"(b) USE OF FUNDS.—Grants under this subpart shall be used for financial assistance to economically disadvantaged older Americans, recent immigrants and students of migrant parents who participate in the program described in subsection (a). Financial assistance received pursuant to this subpart by such individuals shall be known as Allen J. Ellender fellowships.

**"SEC. 10732. APPLICATIONS.**

"(a) APPLICATION REQUIRED.—No grant under this subpart may be made except upon application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(b) CONTENTS OF APPLICATION.—Except such application shall contain provisions to assure—

"(1) that fellowship grants are made to economically disadvantaged older Americans, recent immigrants and students of migrant parents.

"(2) that every effort will be made to ensure the participation of older Americans, recent immigrants and students of migrant parents from

rural and small town areas, as well as from urban areas, and that in awarding fellowships, special consideration will be given to the participation of older Americans, recent immigrants and students of migrant parents with special needs, including individuals with disabilities, ethnic minorities, and gifted and talented students;

"(3) that activities permitted by subsection (a) are fully described; and

"(4) the proper disbursement of the funds received under this subpart.

**"Subpart 4—General Provisions**

**"SEC. 10741. ADMINISTRATIVE PROVISIONS.**

"(a) GENERAL RULE.—Payments under this part may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of underpayment or overpayment.

"(b) AUDIT RULE.—The Comptroller General of the United States or any of the Comptroller General's duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to any grant under this part.

**"SEC. 10742. AUTHORIZATION OF APPROPRIATIONS.**

"(a) IN GENERAL.—There are authorized to be appropriated to carry out the provisions of subparts 1, 2, and 3 of this part \$4,400,000 for fiscal year 1995 and such sums as may be necessary of each of the four succeeding fiscal year.

"(b) SPECIAL RULE.—Of the funds appropriated pursuant to subsection (a), not more than 30 percent may be used for teachers associated with students participating in the programs described in section 10711(a).

**"PART H—DE LUGO TERRITORIAL EDUCATION IMPROVEMENT PROGRAM**

**"SEC. 10801. FINDINGS AND PURPOSES.**

"(a) FINDINGS.—The Congress finds that—

"(1) the attainment of a high quality education is important to a society and to each individual;

"(2) it is the policy of the United States that all citizens have a fair opportunity to receive a high quality education;

"(3) such opportunity should extend to United States citizens and nationals residing in the outlying areas;

"(4) reports show that the outlying areas have repeatedly placed last in national education tests which measure knowledge in core subject areas;

"(5) all students must realize their potential if the United States is to prosper; and

"(6) students in the outlying areas require additional assistance if such students are to obtain the high standards established for all students in the United States.

"(b) PURPOSES.—The purpose of this part is to authorize an education improvement program for the outlying areas which will assist in developing programs which will enhance student learning, increase the standard of education, and improve the performance levels of all students.

**"SEC. 10802. GRANT AUTHORIZATION.**

"The Secretary is authorized to make grants to the outlying areas to fund innovative education improvement programs which will increase student learning.

**"SEC. 10803. CONSTRUCTION.**

"No funds from a grant under section 10802 may be used for construction.

**"SEC. 10804. AUTHORIZATION OF APPROPRIATIONS.**

"There are authorized to be appropriated to carry out this subpart \$3,000,000 for each of the fiscal years 1994 through 1999.

**"PART I—21ST CENTURY COMMUNITY LEARNING CENTERS**

**"SEC. 10901. SHORT TITLE.**

"This part may be cited as the '21st Century Community Learning Centers Act'.

**"SEC. 10902. FINDINGS.**

"The Congress finds that—

"(1) a local public school often serves as a center for the delivery of education and human resources for all members of a community;

"(2) public schools, primarily in rural and inner city communities, should collaborate with other public and nonprofit agencies and organizations, local businesses, educational entities (such as vocational and adult education programs, school-to-work programs, community colleges, and universities), recreational, cultural, and other community and human service entities, for the purpose of meeting the needs of, and expanding the opportunities available to, the residents of the communities served by such schools;

"(3) by using school facilities, equipment, and resources, communities can promote a more efficient use of public education facilities, especially in rural and inner city areas where limited financial resources have enhanced the necessity for local public schools to become social service centers;

"(4) the high technology, global economy of the 21st century will require lifelong learning to keep America's workforce competitive and successful, and local public schools should provide centers for lifelong learning and educational opportunities for individuals of all ages; and

"(5) 21st Century Community Learning Centers enable the entire community to develop an education strategy that addresses the educational needs of all members of local communities.

**"SEC. 10903. PROGRAM AUTHORIZATION.**

"(a) GRANTS BY THE SECRETARY.—The Secretary is authorized, in accordance with the provisions of this part, to award grants to rural and inner-city public elementary or secondary schools, or consortia of such schools, to enable such schools or consortia to plan, implement, or to expand projects that benefit the educational, health, social service, cultural, and recreational needs of a rural or inner-city community.

"(b) EQUITABLE DISTRIBUTION.—In awarding grants under this part, the Secretary shall assure an equitable distribution of assistance among the States, among urban and rural areas of the United States, and among urban and rural areas of a State.

"(c) GRANT PERIOD.—The Secretary shall award grants under this part for a period not to exceed 3 years.

"(d) AMOUNT.—The Secretary shall not award a grant under this part in any fiscal year in an amount less than \$35,000.

**"SEC. 10904. APPLICATION REQUIRED.**

"(a) APPLICATION.—To be eligible to receive a grant under this part, an elementary or secondary school or consortium shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably prescribe. Each such application shall include—

"(1) a comprehensive local plan that enables the school or consortium to serve as a center for the delivery of education and human resources for members of a community;

"(2) an evaluation of the needs, available resources, and goals and objectives for the proposed project in order to determine which activities will be undertaken to address such needs; and

"(3) a description of the proposed project, including—

"(A) a description of the mechanism that will be used to disseminate information in a manner

that is understandable and accessible to the community;

"(B) identification of Federal, State, and local programs to be merged or coordinated so that public resources may be maximized;

"(C) a description of the collaborative efforts to be undertaken by community-based organizations, related public agencies, businesses, or other appropriate organizations;

"(D) a description of how the school or consortium will serve as a delivery center for existing and new services, especially for interactive telecommunication used for education and professional training; and

"(E) an assurance that the school or consortium will establish a facility utilization policy that specifically states—

"(i) the rules and regulations applicable to building and equipment use; and

"(ii) supervision guidelines.

"(b) PRIORITY.—The Secretary shall give priority to applications describing projects that offer a broad selection of services which address the needs of the community.

#### "SEC. 10905. USES OF FUNDS.

"Grants awarded under this part may be used to plan, implement, or expand community learning centers which include not less than four of the following activities:

"(1) Literacy education programs.

"(2) Senior citizen programs.

"(3) Children's day care services.

"(4) Integrated education, health, social service, recreational, or cultural programs.

"(5) Summer and weekend school programs in conjunction with recreation programs.

"(6) Nutrition and health programs.

"(7) Expanded library service hours to serve community needs.

"(8) Telecommunications and technology education programs for individuals of all ages.

"(9) Parenting skills education programs.

"(10) Support and training for child day care providers.

"(11) Employment counseling, training, and placement.

"(12) Services for individuals who leave school before graduating from secondary school, regardless of the age of such individual.

"(13) Services for individuals with disabilities.

#### "SEC. 10906. DEFINITION.

"For the purpose of this part, the term 'community learning center' means an entity within a public elementary or secondary school building that—

"(1) provides educational, recreational, health, and social service programs for residents of all ages within a local community; and

"(2) is operated by a local educational agency in conjunction with local governmental agencies, businesses, vocational education programs, institutions of higher education, community colleges, and cultural, recreational, and other community and human service entities.

#### "SEC. 10907. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated \$20,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this part.

#### "PART J—URBAN AND RURAL EDUCATION ASSISTANCE

#### "SEC. 10951. AUTHORIZATION OF APPROPRIATIONS.

"(a) DEMONSTRATION GRANTS.—

"(1) IN GENERAL.—There are authorized to be appropriated \$125,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out subparts 1 and 2 (other than section 10975).

"(2) RESERVATION FOR SUBPART 1.—The Secretary shall reserve 50 percent of the amount appropriated under paragraph (1) to carry out subpart 1.

"(3) RESERVATION FOR SUBPART 2.—The Secretary shall reserve 50 percent of the amount appropriated under paragraph (1) to carry out subpart 2 (other than section 10975).

"(b) HIGHER EDUCATION GRANTS.—There are authorized to be appropriated \$25,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years to carry out section 10975.

"(c) FEDERAL FUNDS TO SUPPLEMENT NOT SUPPLANT NON-FEDERAL FUNDS.—An eligible local educational agency may use funds received under this part only to supplement and, to the extent practicable, increase the level of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of students participating in activities assisted under this part, and in no such case may such funds be used to supplant funds from non-Federal sources.

#### "SEC. 10952. DEFINITIONS.

"Except as otherwise provided, for the purposes of this part:

"(1) CENTRAL CITY.—The term 'central city' has the same meaning used by the Bureau of the Census.

"(2) METROPOLITAN STATISTICAL AREA.—The term 'metropolitan statistical area' has the same meaning used by the Bureau of the Census.

"(3) POVERTY LEVEL.—The term 'poverty level' means the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census.

"(4) RURAL ELIGIBLE LOCAL EDUCATIONAL AGENCY.—The term 'rural eligible local educational agency' means a local educational agency—

"(A) in which at least 15 percent of the children enrolled in the schools served by such agency are eligible to be counted under part A of title I; and

"(ii) which is not in a metropolitan statistical area; or

"(B) in which the total enrollment in the schools served by such agency is less than 2,500 students and that does not serve schools located in a metropolitan statistical area.

"(5) URBAN ELIGIBLE LOCAL EDUCATIONAL AGENCY.—The term 'urban eligible local educational agency' means a local educational agency that—

"(A) serves the largest central city in a State;

"(B) enrolls more than 30,000 students and serves a central city with a population of at least 200,000 in a metropolitan statistical area; or

"(C) enrolls between 25,000 and 30,000 students and serves a central city with a population of at least 140,000 in a metropolitan statistical area.

#### "Subpart 1—Urban Education Demonstration Grants

#### "SEC. 10961. FINDINGS.

"The Congress finds that—

"(1) the ability of the Nation's major urban public school systems to meet the Nation's educational goals will determine the country's economic competitiveness and academic standing in the world community;

"(2) the quality of public education in the Nation's major urban areas has a direct effect on the economic development of the Nation's inner-cities;

"(3) the success of urban public schools in boosting the achievement of its minority youth attending such schools will determine the ability of the Nation to close the gap between the 'haves and the have-nots' in society;

"(4) the cost to America's businesses to provide remedial education to high school graduates is approximately \$21,000,000,000 per year;

"(5) approximately one-third of the Nation's workforce will be members of minority groups by the year 2000;

"(6) urban schools enroll a disproportionately large share of the Nation's poor and 'at-risk' youth;

"(7) urban schools enroll approximately one-third of Nation's poor, 40 percent of the Nation's African American children, and 30 percent of the Nation's Hispanic youth;

"(8) nearly 20 percent of the Nation's limited-English proficient children and 15 percent of the Nation's disabled youth are enrolled in urban public schools;

"(9) the academic performance of students in the average inner-city public school system is below that of students in most other kinds of school systems;

"(10) urban public school systems have higher dropout rates, more problems with health care, and less parental participation than other kinds of school systems;

"(11) urban preschoolers have one-half the access to early childhood development programs as do other children;

"(12) shortages of teachers in urban public school systems are 2.5 times greater than such shortages in other kinds of school systems;

"(13) declining numbers of urban minority high school graduates are pursuing postsecondary educational opportunities;

"(14) urban public school systems have greater problems with teenage pregnancy, discipline, drug abuse, and gangs than do other kinds of school systems;

"(15) 75 percent of urban public school buildings are over 25 years old, 33 percent of such buildings are over 50 years old, and such buildings are often in serious disrepair and create poor and demoralizing working and learning conditions;

"(16) solving the challenges facing our Nation's urban schools will require the concerted and collaborative efforts of all levels of government and all sectors of the community;

"(17) Federal and State funding of urban public schools has not adequately reflected need; and

"(18) Federal funding that is well-targeted, flexible, and accountable would contribute significantly to addressing the comprehensive needs of inner-city public schools.

#### "SEC. 10962. PURPOSE.

"It is the purpose of this subpart to provide financial assistance to—

"(1) assist urban public schools in meeting the National Education Goals;

"(2) improve the educational and social well-being of urban public school children;

"(3) close the achievement gap between urban and nonurban public school children, while improving the achievement level of all children nationally;

"(4) conduct coordinated research on urban public education problems, solutions, and promising practices;

"(5) improve the Nation's global economic and educational competitiveness by improving the Nation's urban schools; and

"(6) encourage community, parental, and business collaboration in the improvement of urban schools.

#### "SEC. 10963. URBAN SCHOOL GRANTS.

"(a) AUTHORITY.—The Secretary is authorized to make grants to eligible local educational agencies serving an urban area or State educational agencies in the case where the State educational agency is the local educational agency for activities designed to assist in local school improvement efforts and school reform, and to assist the schools of such agencies in meeting the National Education Goals.

"(b) AUTHORIZED ACTIVITIES.—Funds under this section may be used to—

"(1) increase the academic achievement of urban public school children to at least the national average, such as—

"(A) effective public schools programs;

"(B) tutoring, mentoring, and other activities to improve academic achievement directly;

"(C) activities designed to increase the participation of minority and female students in entry level and advanced courses in mathematics and science;

"(D) supplementary academic instruction;

"(E) efforts to improve problem-solving and higher-order thinking skills;

"(F) programs to increase student motivation for learning; and

"(G) efforts to lengthen the school day or school year, or to reduce class sizes;

"(2) ensure the readiness of all urban public school children for school, such as—

"(A) full workday, full calendar-year comprehensive early childhood development programs;

"(B) parenting classes and parent involvement activities;

"(C) activities designed to coordinate pre-kindergarten and child care programs;

"(D) efforts to integrate developmentally appropriate prekindergarten services into the overall public school program;

"(E) upgrading the qualifications of early childhood education staff and standards for programs;

"(F) collaborative efforts with health and social service agencies to provide comprehensive services and to facilitate the transition from home to school;

"(G) establishment of comprehensive child care centers in public secondary schools for students who are parents and their children; and

"(H) augmenting early childhood development programs to meet the special educational and cultural needs of limited-English-proficient preschool children;

"(3) increase the graduation rates of urban public school students to at least the national average, such as—

"(A) dropout prevention activities and support services for public school students at-risk of dropping out of school;

"(B) reentry, outreach, and support activities to recruit students who have dropped out of school to return to school;

"(C) development of systemwide policies and practices that encourage students to stay in school;

"(D) efforts to provide individualized student support, such as mentoring programs;

"(E) collaborative activities between schools, parents, community groups, agencies, and institutions of higher education aimed at preventing individuals from dropping out of school;

"(F) programs to increase student attendance; and

"(G) alternative programs for students, especially bilingual and special education students, who have dropped out of school or are at risk of dropping out of school;

"(4) prepare urban public school students to enter higher education, pursue careers, and exercise their responsibilities as citizens, such as—

"(A) activities designed to increase the number and percentages of students, particularly minority students, enrolling in postsecondary educational institutions after graduation from public secondary schools;

"(B) in-school youth employment, vocational education, and career education programs that improve the transition from school to work;

"(C) activities designed in collaboration with colleges and universities to assist urban public school graduates in completing higher education;

"(D) efforts to increase voter registration among eligible public secondary school students;

"(E) activities designed to promote community service and volunteerism among students, parents, teachers, and the community; and

"(F) civic education and other programs designed to enhance responsible citizenship and understanding of the political process;

"(5) recruit and retain qualified teachers, such as—

"(A) school-based management projects and activities;

"(B) programs designed to test efforts to increase the professionalization of teachers or to bring teachers up to national voluntary standards;

"(C) alternative routes to certification for qualified individuals from business, the military, and other fields;

"(D) efforts to recruit and retain teachers, particularly minority teachers, specializing in critical shortage areas, including early childhood teachers, mathematics and science teachers, and special education and bilingual teachers;

"(E) upgrading the skills of teacher aides and paraprofessionals to permit such individuals to become certified teachers;

"(F) activities specifically designed to increase the number of minority teachers in urban schools;

"(G) incentives for teachers to work in inner-city public schools; and

"(H) collaborative activities with urban universities to revise and upgrade teacher training programs;

"(6) provide for ongoing staff development to increase the professional capacities of the teaching staff and the skills of teacher aides and paraprofessionals;

"(7) decrease the use of drugs and alcohol among urban public school students and enhance the physical and emotional health of such students, such as—

"(A) activities designed to improve the self-esteem and self-worth of urban public school students;

"(B) the provision of health care services and other social services and the coordination of such services with other health care providers;

"(C) programs designed to improve safety and discipline and reduce in-school violence, vandalism, and gang activity;

"(D) activities that begin in the early grades and are designed to prevent drug and alcohol abuse and smoking among students and teachers;

"(E) collaborative activities with other agencies, businesses, and community groups to discourage the advertisement and glorification of drugs and alcohol;

"(F) efforts to enhance health education and nutrition education; and

"(G) alternative public schools, and schools-within-schools programs, including bilingual and special education programs for public school students with special needs; or

"(8) plan, develop, operate, or expand programs and activities that are designed to assist urban public schools in meeting the National Education Goals, including—

"(A) training of teachers and other educational personnel in subject areas, or in instructional technology and methods that will improve the delivery of services in urban settings and assist in the achievement of the National Education Goals, including staff development efforts that emphasize multicultural and gender and disability bias-free curricula;

"(B) coordination and collaboration with other municipal agencies, child care organizations, universities, or the private sector;

"(C) parental involvement and outreach efforts and other activities designed to enhance parental encouragement of student learning;

"(D) pupil services and other support services that contribute to progress in achieving National Education Goals;

"(E) efforts to acquire and improve access to educational technology;

"(F) assist the schools most in need of services by replicating successful efforts of other urban local educational agencies and expanding successful programs within the eligible agency; or

"(G) efforts to improve and strengthen the curriculum and coordinate services across grade levels.

"(c) APPLICATIONS.—

"(1) IN GENERAL.—An eligible local educational agency desiring to receive a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonable require, consistent with this section.

"(2) DURATION.—An application submitted pursuant to paragraph (1) may be for a period of not more than five years.

"(d) PAYMENTS.—The Secretary shall make an award only to urban eligible local educational agencies that—

"(1) comply with the provisions of section 10966; and

"(2) demonstrate to the satisfaction of the Secretary that the data submitted pursuant to section 10961 shows progress toward meeting National Education Goals.

"(e) ADMINISTRATIVE COSTS.—Not more than five percent of any award made under this subpart may be used for administrative costs.

"SEC. 10964. SPECIAL RULES.

"(a) SPECIAL CONSIDERATION.—In making awards under this subpart, the Secretary shall give special consideration to urban eligible local educational agencies in which there is—

"(1) low achievement;

"(2) high poverty; and

"(3) racial isolation.

"(b) FLEXIBILITY.—Each urban eligible local educational agency shall have the flexibility to serve homeless children, children in schools undergoing desegregation, immigrants, migrants, or other highly mobile populations within the program assisted under this subpart.

"Subpart 2—Rural Education Demonstration Grants

"SEC. 10971. FINDINGS.

"The Congress finds that—

"(1) the ability of America's rural public school systems to meet the National Education Goals will contribute to the economic competitiveness and academic standing of the Nation in the world community;

"(2) approximately 60 percent of the Nation's public school districts are rural with a population of less than 2,500;

"(3) about 1 out of every 4 of America's rural school children are living below the poverty line;

"(4) the quality of public education in the rural areas of the Nation has a direct effect on the economic development of the rural communities of the Nation;

"(5) the success of rural public schools in boosting the achievement of minority youth attending such schools will determine the ability of the Nation to close the gap between the haves and the have-nots in society;

"(6) the academic performance of students in the average rural school system is below that of students in most other suburban school systems;

"(7) the average age of rural public school buildings is more than 45 years old and such buildings are often in serious disrepair, creating poor and demoralizing working and learning conditions;

"(8) shortages of teachers for rural public school systems is greater than in other kinds of school systems;

"(9) solving the challenges facing the Nation's rural public schools will require the concerted and collaborative efforts of all levels of government and all sectors of the community;

"(10) additional Federal funding would contribute significantly to addressing the comprehensive needs of rural schools;

"(11) rural public schools enroll a disproportionately large share of the Nation's poor and at-risk youth;

"(12) a declining number of rural public secondary school graduates are pursuing post-secondary education opportunities;

"(13) rural preschoolers have less access to early childhood development programs than other children; and

"(14) Federal and State funding of rural public schools has not adequately reflected need.

**"SEC. 10972. PURPOSE.**

"It is the purpose of this subpart to provide financial assistance to rural public schools most in need, to encourage the comprehensive restructuring of America's rural schools, the appropriate use of telecommunications technologies for learning, and to support innovative programs which improve performance through programs and projects designed to—

"(1) assist rural public schools in meeting National Education Goals;

"(2) encourage rural public schools to engage in school reform;

"(3) develop pilot projects that experiment with innovative ways to teach rural public school children more effectively;

"(4) improve the educational and social well-being of rural public school children;

"(5) close the achievement gap between children attending rural public schools and other children, while improving the achievement level of all children nationally;

"(6) conduct coordinated research on rural education problems, solutions, promising practices, and distance learning technologies;

"(7) improve the Nation's global economic and educational competitiveness by improving the Nation's rural public schools;

"(8) encourage community, parental, and business collaboration in the improvement of rural public schools;

"(9) encourage rural school consortia for the purpose of increasing efficiency and course offerings;

"(10) encourage a positive role for rural public schools in local rural entrepreneurship and the identification of rural community economic development opportunities;

"(11) encourage community-as-school concepts, which include the role public schools can play to assist with rural community economic revitalization; and

"(12) provide for the recruitment and meaningful inservice opportunities for rural public school teachers.

**"SEC. 10973. RURAL SCHOOL GRANTS.**

"(a) **AUTHORITY.**—The Secretary is authorized to make grants to rural eligible local educational agencies, or State educational agencies in the case where the State educational agency is the local educational agency, for activities designed to assist in local school improvement efforts.

"(b) **AWARD RULES.**—

"(1) **LESS THAN \$50,000,000.**—If the amount made available to carry out this subpart for any fiscal year is less than \$50,000,000, the Secretary shall award grants under this section on a competitive basis.

"(2) **EQUAL TO OR GREATER THAN \$50,000,000.**—If the amount made available to carry out this subpart for any fiscal year is equal to or greater than \$50,000,000, the Secretary shall award grants under this section so that a rural eligible local educational agency in each State receives such a grant.

"(c) **ADMINISTRATIVE COSTS.**—Not more than five percent of a grant awarded under section 10573 shall be used for administrative costs.

"(d) **DURATION.**—Each grant under this section shall be awarded for a period of not more than five years.

**"SEC. 10974. USES OF FUNDS.**

"(a) **IN GENERAL.**—Grant funds made available under section 10973 may be used by rural

eligible local educational agencies to meet the National Education Goals through programs designed to—

"(1) increase the academic achievement of rural public school children to at least the national average of such achievement, including education reform initiatives, such as—

"(A) effective public schools programs;

"(B) tutoring, mentoring, and other activities to improve academic achievement directly;

"(C) supplementary academic instruction;

"(D) efforts to improve problem-solving and higher-order critical thinking skills; and

"(E) efforts to lengthen the school day, school year, or reduce class sizes;

"(2) develop pilot projects that experiment with innovative ways to teach rural public school children more effectively;

"(3) encourage the formation of rural school consortia for the purpose of increasing efficiency and course offerings;

"(4) provide meaningful inservice training opportunities for rural public school teachers;

"(5) assist rural schools in acquiring and improving access to educational technology, including distance learning technologies;

"(6) ensure the readiness of all rural children for school, such as—

"(A) full workday, full calendar-year comprehensive early childhood development programs;

"(B) parenting classes, including parenting classes for teenage parents, and parent involvement activities;

"(C) activities designed to coordinate pre-kindergarten and child care programs;

"(D) efforts to integrate developmentally appropriate prekindergarten services into the overall public school program;

"(E) improving the skills of early childhood education staff and standards for programs;

"(F) collaborative efforts with health and social service agencies to provide comprehensive services and to facilitate the transition from home to school;

"(G) establishment of comprehensive child care centers in public secondary schools for student parents and their children; and

"(H) augmenting early childhood development programs to meet the special educational and cultural needs of limited-English proficient children, children with disabilities, and migrant preschool children;

"(7) increase the graduation rates of rural public school students to at least the national average of such rate, when funds are used to serve secondary schools, such as—

"(A) dropout prevention activities and support services for students at-risk of dropping out of school;

"(B) reentry, outreach and support activities to recruit students who have dropped out of school to return to school;

"(C) development of systemwide policies and practices that encourage students to stay in school;

"(D) efforts to provide individualized student support;

"(E) collaborative activities between schools, parents, community groups, agencies, and institutions of higher education aimed at preventing individuals from dropping out of school;

"(F) programs to increase student attendance; and

"(G) alternative programs for students, especially bilingual, special education, and migrant students, who have dropped out of school or are at risk of dropping out of school;

"(8) prepare rural public school students to enter higher education, pursue careers, and exercise their responsibilities as citizens, such as—

"(A) activities designed to increase the number and percentages of students, enrolling in postsecondary educational institutions after graduation from secondary schools;

"(B) in-school youth employment, vocational education, and career education programs that improve the transition from school to work;

"(C) activities designed in collaboration with colleges and universities to assist rural public school graduates in completing higher education;

"(D) activities designed in conjunction with community colleges to provide a kindergarten through grade 14 experience for rural public school secondary school students;

"(E) efforts to increase voter registration among eligible public secondary school students attending schools served by rural eligible local educational agencies;

"(F) activities designed to promote community service and volunteerism among students, parents, teachers, and the community;

"(G) civic education, law-related education, and other programs designed to enhance responsible citizenship and understanding of the political process; and

"(H) encouraging a positive role for rural public schools in local rural entrepreneurship and the identification of rural community economic development opportunities;

"(9) recruit and retain qualified teachers, such as—

"(A) school-based management projects and activities;

"(B) programs designed to increase the status of the teaching profession;

"(C) alternative routes to certification for qualified individuals from business, the military, and other fields;

"(D) efforts to recruit and retain teachers in critical shortage areas, including early childhood teachers, mathematics and science teachers, foreign language teachers, and special education and bilingual teachers;

"(E) upgrading the skills of existing classroom teachers through the use of year-round, systematic, comprehensive inservice training programs;

"(F) upgrading the skills of teacher aides and paraprofessionals to assist such individuals in becoming certified teachers;

"(G) efforts specifically designed to increase the number of minority teachers in rural public schools;

"(H) programs designed to encourage parents and students to enter the teaching profession;

"(I) incentives for teachers to work in rural public schools;

"(J) collaborative activities with colleges and universities to revise and upgrade teacher training programs to meet the needs of rural public school students; and

"(K) training activities for the purpose of incorporating distance learning technologies; or

"(10) decrease the use of drugs and alcohol among rural public school students, and to enhance the physical and emotional health of such students, such as—

"(A) activities designed to improve the self-esteem and self-worth of rural students;

"(B) the provision of health care services and other social services and the coordination of such services with other health care providers;

"(C) programs designed to improve safety and discipline and reduce in-school violence and vandalism;

"(D) activities that begin in the early grades and are designed to prevent drug and alcohol abuse and smoking among students;

"(E) collaborative activities with other agencies, businesses, and community groups;

"(F) efforts to enhance health education and nutrition education; and

"(G) alternative public schools, and schools-within-schools programs, including bilingual, migrant, and special education programs for students with special needs.

"(b) **APPLICATIONS.**—Each eligible entity desiring a grant under section 10973 shall submit

an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require. Each grant awarded under section 10973 shall be of sufficient size and scope to achieve significant rural school improvement.

**"SEC. 10975. HIGHER EDUCATION GRANTS.**

"(a) GRANTS.—The Secretary is authorized to make grants to institutions of higher education, consortia of such institutions, or partnerships between institutions of higher education and local educational agencies to assist rural schools and rural eligible local educational agencies in undertaking local school improvement activities.

"(b) AUTHORIZED ACTIVITIES.—Grant funds under this section may be used to—

"(1) assist rural schools in meeting National Education Goals;

"(2) assist in the recruitment and training of teachers in rural schools;

"(3) assist rural schools in the development of appropriate innovative school improvement initiatives;

"(4) provide inservice training opportunities for teachers in rural schools; and

"(5) provide technical assistance in the use and installation of innovative telecommunications technology.

"(c) APPLICATIONS.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

**"Subpart 3—White House Conferences**

**"SEC. 10981. WHITE HOUSE CONFERENCE ON URBAN EDUCATION.**

"(a) AUTHORIZATION TO CALL CONFERENCE.—  
"(1) IN GENERAL.—The President is authorized to call and conduct a White House Conference on Urban Education (referred to in this section as the 'Conference') which shall be held not earlier than November 1, 1995, and not later than October 30, 1996.

"(2) PURPOSE.—The purpose of the Conference shall be to—

"(A) develop recommendations and strategies for the improvement of urban education;

"(B) marshal the forces of the private sector, governmental agencies at all levels, parents, teachers, communities, and education officials to assist urban public schools in achieving National Education Goals; and

"(C) conduct the initial planning for a permanent national advisory commission on urban education.

"(b) COMPOSITION OF CONFERENCE.—

"(1) IN GENERAL.—The Conference shall be comprised of 12 individuals, including—

"(A) representatives of urban public school systems, including members of the governing body of local educational agencies, and school superintendents;

"(B) representatives of the Congress, the Department of Education, and other Federal agencies;

"(C) State elected officials and representatives from State educational agencies; and

"(D) individuals with special knowledge of and expertise in urban education.

"(2) SELECTION.—The President shall select one-third of the participants of the Conference, the majority leader of the Senate, in consultation with the minority leader of the Senate, shall select one-third of such participants, and the Speaker of the House of Representatives, in consultation with the minority leader of the House, shall select the remaining one-third of such participants.

"(3) REPRESENTATION.—In selecting the participants of the Conference, the President, the Majority Leader of the Senate, and the Speaker of the House of Representatives shall ensure that the participants are as representative of the ethnic, racial, and linguistic diversity of cities as is practicable.

"(c) REPORT.—

"(1) IN GENERAL.—Not later than 120 days following the termination of the Conference, a final report of the Conference, containing such findings and recommendations as may be made by the Conference, shall be submitted to the President. The final report shall be made public and, not later than 90 days after receipt by the President, transmitted to the Congress together with a statement of the President containing recommendations for implementing the report.

"(2) PUBLICATION AND DISTRIBUTION.—The Conference is authorized to publish and distribute the report described in this section. Copies of the report shall be provided to the Federal depository libraries and made available to local urban public school leaders.

**"SEC. 10982. WHITE HOUSE CONFERENCE ON RURAL EDUCATION.**

"(a) AUTHORIZATION TO CALL CONFERENCE.—

"(1) IN GENERAL.—The President is authorized to call and conduct a White House Conference on Rural Education (hereafter in this section referred to as the 'Conference').

"(2) DATE.—The Conference shall be held not earlier than November 1, 1995, and not later than October 30, 1996.

"(3) PURPOSE.—The purposes of the Conference shall be to—

"(A) develop recommendations and strategies for the improvement of rural public education;

"(B) marshal the forces of the private sector, governmental agencies at all levels, parents, teachers, communities, and education officials to assist rural public schools in achieving National Education Goals, and make recommendations on the roles rural public schools can play to assist with local rural community economic revitalization; and

"(C) conduct the initial planning for a permanent national commission on rural public education.

"(b) COMPOSITION OF CONFERENCE.—

"(1) IN GENERAL.—The Conference shall be comprised of—

"(A) representatives of eligible public school systems, including members of the governing body of local educational agencies, school superintendents, and classroom teachers;

"(B) representatives of the Congress, the Department, and other Federal agencies;

"(C) State elected officials and representatives from State educational agencies;

"(D) individuals with special knowledge of, and expertise in, rural education, including individuals involved with rural postsecondary education; and

"(E) individuals with special knowledge of, and expertise in, rural business.

"(2) SELECTION.—The President shall select one-third of the participants of the Conference, the Majority Leader of the Senate, in consultation with the Minority Leader of the Senate, shall select one-third of such participants, and the Speaker of the House of Representatives, in consultation with the Minority Leader of the House, shall select the remaining one-third of such participants.

"(3) REPRESENTATION.—In selecting the participants of the Conference, the President, the Majority Leader of the Senate, and the Speaker of the House of Representatives shall ensure that the participants are as representative of the ethnic, racial, and language diversity of rural areas as is practicable.

"(c) REPORT.—

"(1) IN GENERAL.—Not later than 120 days following the termination of the Conference, a final report of the Conference, containing such findings and recommendations as may be made by the Conference, shall be submitted to the President. The final report shall be made public and, not later than 90 days after receipt by the President, transmitted to the Congress together

with a statement of the President containing recommendations for implementing the report.

"(2) PUBLICATION AND DISTRIBUTION.—The Conference is authorized to publish and distribute the report described in this section. Copies of the report shall be provided to the Federal depository libraries and made available to local rural school leaders and teachers.

**"PART K—NATIONAL WRITING PROJECT**

**"SEC. 10991. FINDINGS.**

"The Congress finds that—

"(1) the United States faces a crisis in writing in schools and in the workplace;

"(2) the writing problem has been magnified by the rapidly changing student populations and the growing number of at-risk students due to limited English proficiency;

"(3) over the past two decades, universities and colleges across the country have reported increasing numbers of entering freshmen who are unable to write at a level equal to the demands of college work;

"(4) American businesses and corporations are concerned about the limited writing skills of entry-level workers, and a growing number of executives are reporting that advancement was denied to them due to inadequate writing abilities;

"(5) the writing problem has been magnified by the rapidly changing student populations in the Nation's schools and the growing number of students who are at risk because of limited English proficiency;

"(6) writing and reading are both fundamental to learning, yet writing has been historically neglected in the schools and colleges, and most teachers in the United States elementary schools, secondary schools, and colleges have not been trained to teach writing;

"(7) since 1973, the only national program to address the writing problem in the Nation's schools has been the National Writing Project, a network of collaborative university-school programs whose goal is to improve the quality of student writing and the teaching of writing at all grade levels and to extend the uses of writing as a learning process through all disciplines;

"(8) the National Writing Project offers summer and school year inservice teacher training programs and a dissemination network to inform and teach teachers of developments in the field of writing;

"(9) the National Writing Project is a nationally recognized and honored nonprofit organization that recognizes that there are teachers in every region of the country who have developed successful methods for teaching writing and that such teachers can be trained and encouraged to train other teachers;

"(10) the National Writing Project has become a model for programs to improve teaching in such other fields as mathematics, science, history, literature, performing arts, and foreign languages;

"(11) the National Writing Project teacher-teaching-teachers program identifies and promotes what is working in the classrooms of the Nation's best teachers;

"(12) the National Writing Project teacher-teaching-teachers project is a positive program that celebrates good teaching practices and good teachers and through its work with schools increases the Nation's corps of successful classroom teachers;

"(13) evaluations of the National Writing Project document the positive impact the project has had on improving the teaching of writing, student performance, and student thinking and learning ability;

"(14) the National Writing Project programs offer career-long education to teachers, and teachers participating in the National Writing Project receive graduate academic credit;

"(15) each year over 100,000 teachers voluntarily seek training in National Writing Project

intensive summer institutes and workshops and school year in-service programs through one of the 154 regional sites located in 45 States, the Commonwealth of Puerto Rico, and in 4 sites that serve United States teachers in United States dependent and independent schools;

"(16) 250 National Writing Project sites are needed to establish regional sites to serve all teachers;

"(17) private foundation resources, although generous in the past, are inadequate to fund all of the National Writing Project sites needed and the future of the program is in jeopardy without secure financial support;

"(18) independent evaluation studies have found the National Writing Project to be highly cost effective compared to other professional development programs for teachers; and

"(19) during 1991, the first year of Federal support for the National Writing Project, the National Writing Project matched the \$1,951,975 in Federal support with \$9,485,504 in matching funds from State, local, and other sources.

**"SEC. 10992. NATIONAL WRITING PROJECT.**

"(a) **AUTHORIZATION.**—The Secretary is authorized to make a grant to the National Writing Project (hereafter in this section referred to as the 'grantee'), a nonprofit educational organization which has as its primary purpose the improvement of the quality of student writing and learning, and the teaching of writing as a learning process in the Nation's classrooms—

"(1) to support and promote the establishment of teacher training programs, including the dissemination of effective practices and research findings regarding the teaching of writing and administrative activities;

"(2) to support classroom research on effective teaching practice and to document student performance;

"(3) to coordinate activities assisted under this section with activities assisted under title II; and

"(4) to pay the Federal share of the cost of such programs.

"(b) **REQUIREMENTS OF GRANT.**—The grant shall provide that—

"(1) the grantee will enter into contracts with institutions of higher education or other nonprofit educational providers (hereafter in this section referred to as 'contractors') under which the contractors will agree to establish, operate, and provide the non-Federal share of the cost of teacher training programs in effective approaches and processes for the teaching of writing;

"(2) funds made available by the Secretary to the grantee pursuant to any contract entered into under this section will be used to pay the Federal share of the cost of establishing and operating teacher training programs as provided in paragraph (1); and

"(3) the grantee will meet such other conditions and standards as the Secretary determines to be necessary to assure compliance with the provisions of this section and will provide such technical assistance as may be necessary to carry out the provisions of this section.

"(c) **TEACHER TRAINING PROGRAMS.**—The teacher training programs authorized in subsection (a) shall—

"(1) be conducted during the school year and during the summer months;

"(2) train teachers who teach grades kindergarten through college;

"(3) select teachers to become members of a National Writing Project teacher network whose members will conduct writing workshops for other teachers in the area served by each National Writing Project site; and

"(4) encourage teachers from all disciplines to participate in such teacher training programs.

"(d) **FEDERAL SHARE.**—

"(1) **IN GENERAL.**—Except as provided in paragraph (2) or (3) and for purposes of subsection

(a), the term 'Federal share' means, with respect to the costs of teacher training programs authorized in subsection (a), 50 percent of such costs to the contractor.

"(2) **WAIVER.**—The Secretary may waive the provisions of paragraph (1) on a case-by-case basis if the National Advisory Board described in subsection (f) determines, on the basis of financial need, that such waiver is necessary.

"(3) **MAXIMUM.**—The Federal share of the costs of teacher training programs conducted pursuant to subsection (a) may not exceed \$40,000 for any one contractor, or \$200,000 for a statewide program administered by any one contractor in at least five sites throughout the State.

"(e) **CLASSROOM TEACHER GRANTS.**—

"(1) **IN GENERAL.**—The National Writing Project may reserve an amount not to exceed 5 percent of the amount appropriated pursuant to the authority of this section to make grants, on a competitive basis, to elementary and secondary school teachers to pay the Federal share of the cost of enabling such teachers to—

"(A) conduct classroom research;

"(B) publish models of student writing;

"(C) conduct research regarding effective practices to improve the teaching of writing; and

"(D) conduct other activities to improve the teaching and uses of writing.

"(2) **SUPPLEMENT AND NOT SUPPLANT.**—Grants awarded pursuant to paragraph (1) shall be used to supplement and not supplant State and local funds available for the purposes set forth in paragraph (1).

"(3) **MAXIMUM GRANT AMOUNT.**—Each grant awarded pursuant to this subsection shall not exceed \$2,000.

"(4) **FEDERAL SHARE.**—For the purpose of this subsection the term 'Federal share' means, with respect to the costs of activities assisted under this subsection, 50 percent of such costs to the elementary or secondary school teacher.

"(f) **NATIONAL ADVISORY BOARD.**—

"(1) **ESTABLISHMENT.**—The National Writing Project shall establish and operate a National Advisory Board.

"(2) **COMPOSITION.**—The National Advisory Board established pursuant to paragraph (1) shall consist of—

"(A) national educational leaders;

"(B) leaders in the field of writing; and

"(C) such other individuals as the National Writing Project deems necessary.

"(3) **DUTIES.**—The National Advisory Board established pursuant to paragraph (1) shall—

"(A) advise the National Writing Project on national issues related to student writing and the teaching of writing;

"(B) review the activities and programs of the National Writing Project; and

"(C) support the continued development of the National Writing Project.

"(g) **EVALUATION.**—

"(1) **IN GENERAL.**—The Secretary shall conduct an independent evaluation by grant or contract of the teacher training programs administered pursuant to this Act in accordance with section 14701. Such evaluation shall specify the amount of funds expended by the National Writing Project and each contractor receiving assistance under this section for administrative costs. The results of such evaluation shall be made available to the appropriate committees of the Congress.

"(2) **FUNDING LIMITATION.**—The Secretary shall reserve not more than \$150,000 from the total amount appropriated pursuant to the authority of subsection (i) for fiscal year 1994 and the four succeeding fiscal years to conduct the evaluation described in paragraph (1).

"(h) **APPLICATION REVIEW.**—

"(1) **REVIEW BOARD.**—The National Writing Project shall establish and operate a National Review Board that shall consist of—

"(A) leaders in the field of research in writing; and

"(B) such other individuals as the National Writing Project deems necessary.

"(2) **DUTIES.**—The National Review Board shall—

"(A) review all applications for assistance under this subsection; and

"(B) recommend applications for assistance under this subsection for funding by the national Writing Project.

"(i) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated for the grant to the National Writing Project, \$4,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out the provisions of this section.

**"PART I—THE EXTENDED TIME FOR LEARNING AND LONGER SCHOOL YEAR**  
**"SEC. 10993. THE EXTENDED TIME FOR LEARNING AND LONGER SCHOOL YEAR.**

"(a) **FINDINGS.**—The Congress finds that—

"(1) the Commission on Time and Learning has found that—

"(A) realizing the third National Education Goal, that states all students will leave grades four, eight and twelve having demonstrated competency in challenging subject matter, including English, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography, will require considerably more common core learning time than most students now receive;

"(B) ensuring that all students learn to high standards will require flexibility and innovation in the use of common core learning time, as well as the rest of the time students spend both during and beyond the school day;

"(C) teachers need regular, sustained time for lesson development, collegial collaboration and other professional development;

"(D) schools, businesses, community-based organizations, tribal leaders, and other community agencies and members should work together to foster effective learning and enrichment programs and activities for students, including programs that operate outside of the regular school day or year;

"(E) for most students in the United States, the school year is 180 days long. In Japan students go to school 243 days per year, in Germany students go to school 240 days per year, in Austria students go to school 216 days per year, in Denmark students go to school 200 days per year, and in Switzerland students go to school 195 days per year; and

"(F) in the final four years of schooling, students in schools in the United States are required to spend a total of 1,460 hours on core academic subjects, less than half of the 3,528 hours so required in Germany, the 3,280 hours so required in France, and the 3,170 hours so required in Japan;

"(2) increasing the amount and duration of intensive, engaging and challenging learning activities geared to high standards can increase student motivation and achievement;

"(3) the benefits of extending learning time, including common core instructional time, can be maximized by concurrent changes in curriculum and instruction, such as accelerated learning, and engaging, interactive instruction based on challenging content;

"(4) maximizing the benefit of increased common core and other learning time will require the collaboration and cooperation of teachers and administrators, students, parents, community members and organizations, businesses and others to develop strategies to meet the needs of students during and beyond the school day and year;

"(5) a competitive world economy requires that students in the United States receive education and training that is at least as rigorous

and high-quality as the education and training received by students in competitor countries;

"(6) despite our Nation's transformation from a farm-based economy to one based on manufacturing and services, the school year is still based on the summer needs of an agrarian economy;

"(7) American students' lack of formal schooling is not counterbalanced with more homework. The opposite is true, as half of all European students report spending at least two hours on homework per day, compared to only 29 percent of American students. Twenty-two percent of American students watch five or more hours of television per day, while less than eight percent of European students watch that much television;

"(8) more than half of teachers surveyed in the United States cite 'children who are left on their own after school' as a major problem;

"(9) over the summer months, disadvantaged students not only fail to advance academically, but many forget much of what such students had learned during the previous school year;

"(10) funding constraints as well as the strong pull of tradition have made extending the school year difficult for most States and school districts; and

"(11) experiments with extended and multi-track school years have been associated with both increased learning and more efficient use of school facilities.

"(b) PURPOSES.—It is the purpose of this part to—

"(1) provide seed money to schools and local educational agencies to enable such agencies to devise and implement strategies and methods for upgrading the quality of, and extending, challenging, engaging learning time geared to high standards for all students; and

"(2) allow the Secretary to provide financial incentives and assistance to States or local educational agencies to enable such States or agencies to substantially increase the amount of time that students spend participating in quality academic programs, and to promote flexibility in school scheduling.

"(c) PROGRAM AUTHORIZED.—

"(1) IN GENERAL.—The Secretary is authorized to award grants to local educational agencies having applications approved under subsection (d) to enable such agencies to carry out the authorized activities described in subsection (e) in public elementary and secondary schools.

"(2) AMOUNT.—The Secretary shall, to the extent practicable, provide an equitable distribution of grants under this section.

"(3) DURATION.—Each grant under subsection (a) shall be awarded for a period of not more than three years.

"(4) PRIORITY.—The Secretary shall give priority to awarding grants under this part to local educational agencies that serve schools with high percentages of students in poverty.

"(d) APPLICATION.—Each local educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall describe—

"(1) the activities for which assistance is sought;

"(2) any study or other information-gathering project for which funds will be used;

"(3) strategies and methods the applicant will use to enrich and extend learning time for all students and to maximize the percentage of common core learning time in the school day, such as block scheduling, team teaching, longer school days or years, and extending learning time through new distance-learning technologies;

"(4) the strategies and methods the applicant will use, including changes in curriculum and instruction, to challenge and engage students

and to maximize the productiveness of common core learning time, as well as the total time students spend in school and in school-related enrichment activities;

"(5) the strategies and methods the applicant intends to employ to provide continuing financial support for the implementation of any extended school day or school year;

"(6) with respect to any application seeking assistance for activities described under subsection (e)(4), a description of any feasibility or other studies demonstrating the sustainability of a longer school year;

"(7) the extent of involvement of teachers and other school personnel in investigating, designing, implementing and sustaining the activities assisted under this part;

"(8) the process to be used for involving parents and other stakeholders in the development and implementation of the activities assisted under this part;

"(9) any cooperation or collaboration among public housing authorities, libraries, businesses, museums, community-based organizations, and other community groups and organizations to extend engaging, high-quality, standards-based learning time outside of the school day or year, at the school or at some other site;

"(10) the training and professional development activities that will be offered to teachers and others involved in the activities assisted under this part;

"(11) the goals and objectives of the activities assisted under this part, including a description of how such activities will assist all students to reach State standards;

"(12) the methods by which the applicant will assess progress in meeting such goals and objectives; and

"(13) how the applicant will use funds provided under this part in coordination with other funds provided under this Act or other Federal laws.

"(e) AUTHORIZED ACTIVITIES.—Funds under this section may be used—

"(1) to study the feasibility of, and effective methods for, extending learning time within or beyond the school day or year, including consultation with other schools or local educational agencies that have designed or implemented extended learning time programs;

"(2) to conduct outreach to and consult with community members, including parents, students, and other stakeholders, such as tribal leaders, to develop a plan to extend learning time within or beyond the school day or year;

"(3) to develop and implement an outreach strategy that will encourage collaboration with public housing authorities, libraries, businesses, museums, community-based organizations, and other community groups and organizations to coordinate challenging, high-quality educational activities outside of the school day or year;

"(4) to support public school improvement efforts that include expansion of time devoted to core academic subjects and the extension of the school year to 210 days;

"(5) to research, develop and implement strategies, including changes in curriculum and instruction, for maximizing the quality and percentage of common core learning time in the school day and extending learning time during or beyond the school day or year;

"(6) to provide professional development for school staff in innovative teaching methods that challenge and engage students, and also increase the productivity of extended learning time; and

"(7) to develop strategies to include parents, business representatives, and other community members in the extended time activities, especially as facilitators of activities that enable teachers to have more time for planning, indi-

vidual student assistance, and professional development activities.

"(f) DEFINITIONS.—For the purpose of this section the term 'common core learning time' means high-quality, engaging instruction in challenging content in each of the following core academic subjects described in the third National Education Goal:

"(1) English.

"(2) Mathematics.

"(3) Science.

"(4) Foreign languages.

"(5) Civics and government.

"(6) Economics.

"(7) Arts.

"(8) History.

"(9) Geography.

"(g) ADMINISTRATION.—

"(1) PEER REVIEW.—The Secretary shall award grants under this section pursuant to a peer review process.

"(2) DIVERSITY.—In awarding grants under this section the Secretary shall ensure that such grants are awarded to a diversity of local educational agencies, including such agencies that serve rural and urban areas.

"(h) APPROPRIATIONS AUTHORIZATION.—

"(1) IN GENERAL.—For the purpose of carrying out this section there are authorized to be appropriated \$90,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(2) LIMITATION.—Not less than 80 percent of any amount appropriated under paragraph (1) shall be made available to applicants seeking to extend their school year to not fewer than 210 days.

#### "PART M—TERRITORIAL ASSISTANCE

##### "SEC. 10995. GENERAL ASSISTANCE FOR THE VIRGIN ISLANDS.

"There are authorized to be appropriated \$5,000,000 for fiscal year 1995 and for each of the 4 succeeding fiscal years, for the purpose of providing general assistance to improve public education in the Virgin Islands.

#### "TITLE XI—COORDINATED SERVICES

##### "SEC. 11001. FINDINGS AND PURPOSE.

"(a) FINDINGS.—The Congress finds the following:

"(1) Growing numbers of children are negatively affected by influences outside of the classroom which increase such children's risk of academic failure.

"(2) Factors such as poor nutrition, unsafe living conditions, physical and sexual abuse, family and gang violence, inadequate health care, unemployment, lack of child care, and substance abuse, adversely affect family relationships and the ability of a child to learn.

"(3) Parents and other caregivers in today's high pressure society often face demands which place restraints on such parents' and caregivers' time and affect such parents' and caregivers' ability to adequately provide for the needs of the families of such parents and caregivers.

"(4) Access to health and social service programs can address the basic physical and emotional needs of children so that children can fully participate in the learning experiences offered children in school.

"(5) Services for at-risk students need to be more convenient, and less fragmented, regulated and duplicative, in order to meet the needs of children and their families.

"(6) School personnel, parents, and support service providers often lack knowledge of, and access to, available services for at-risk students and their families in the community, and have few resources to coordinate services and make services accessible.

"(7) Service providers, such as teachers, social workers, health care and child care providers, juvenile justice workers and others, are often

trained in separate disciplines that provide little support for the coordination of services.

"(8) Coordination of services is more cost effective because such coordination substitutes prevention for expensive crisis intervention.

"(9) Coordinating health and social services with education can help the Nation meet the National Education Goals by ensuring better outcomes for children.

"(b) PURPOSE OF COORDINATING SERVICES.—The purpose of this title is to provide elementary and secondary school students and their families better access to the social, health and education services necessary for students to succeed in school and for their families to take an active role in ensuring that such students receive the best possible education.

**"SEC. 11002. DEFINITIONS.**

"For the purpose of this title—

"(1) the term 'coordinated services project' means a comprehensive approach to meeting the educational, health, social service, and other needs of children and their families, including foster children and their foster families, through a communitywide partnership that links public and private agencies providing such services or access to such services through a coordination site at or near a school; and

"(2) the term 'eligible entity' means a local educational agency, school, or a consortium of schools.

**"SEC. 11003. AUTHORITY.**

"In order to use funds made available under section 14206(b) for the development, or the implementation or expansion, of a coordinated services project an eligible entity shall have an application approved under subsection (b) or (c), respectively, of section 11004.

**"SEC. 11004. PROJECT DEVELOPMENT AND IMPLEMENTATION.**

"(a) APPLICATIONS.—Each eligible entity desiring to use funds made available under section 14206(b) shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

"(b) PROJECT DEVELOPMENT PLAN.—The application for the development of the coordinated services project under this title shall cover a period of not more than 1 year and shall include a plan that—

"(1) demonstrates that an assessment will be performed of the economic, social, and health barriers to educational achievement experienced by children and families, including foster children and their foster families, in the community, and the local, State, Federal, and privately funded services available to meet such needs;

"(2) identifies the measures that will be taken to establish a communitywide partnership that links public and private agencies providing services to children and families; and

"(3) identifies any other measures that will be taken to develop a comprehensive plan for the implementation or expansion of a coordinated services project.

"(c) PROJECT IMPLEMENTATION OR EXPANSION PLAN.—The application for the implementation or expansion of a coordinated services project under this title shall contain a plan that includes—

"(1) the results of a children and families needs assessment, which shall include an assessment of the needs of foster children;

"(2) a description of the entities operating the coordinated services project;

"(3) a description of the proposed coordinated services project, the objectives of such project, where such project will be located, and the staff that will be used to carry out such project;

"(4) a description of how the success of the coordinated services project will be evaluated;

"(5) a description of the training to be provided to teachers and appropriate personnel;

"(6) information regarding whether a sliding scale fee for services will be employed, and if not, an explanation of why such scale is not feasible; and

"(7) when applicable, strategies to ensure that the health and welfare needs of migratory families are addressed.

**"SEC. 11005. USES OF FUNDS.**

"(a) USES.—

"(1) IN GENERAL.—Funds made available under section 14206(b) may be used for planning for, or the implementation or expansion of, activities which include—

"(A) hiring a services coordinator;

"(B) making minor renovations to existing buildings;

"(C) purchasing basic operating equipment;

"(D) improving communications and information-sharing among entities participating in the coordinated services project;

"(E) providing training to teachers and appropriate personnel concerning such teacher's and personnel's role in a coordinated services project; or

"(F) conducting the needs assessment required in section 11004(b)(1).

"(2) PROHIBITION.—Funds made available under section 14206(b) shall not be used for the direct provision of any health or health-related services.

"(b) FEDERAL FUNDS TO SUPPLEMENT, NOT SUPPLANT, NON-FEDERAL FUNDS.—An eligible entity shall use funds received under this title only to supplement the amount of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for coordinated services, and not to supplant such funds.

**"SEC. 11006. CONTINUING AUTHORITY.**

"The Secretary shall prohibit an eligible entity from using funds made available under section 14206(b) if the Secretary determines that the coordinated services project assisted under this title is not achieving effective coordination after two years of implementation of such project.

**"SEC. 11007. FEDERAL AGENCY COORDINATION.**

"(a) AGENCY COORDINATION.—The Secretaries of Education, Health and Human Services, Labor, Housing and Urban Development, Treasury, and Agriculture, and the Attorney General shall review the programs administered by their agencies to identify barriers to service coordination.

"(b) REPORT TO CONGRESS.—Such Secretaries and the Attorney General shall submit jointly a report to the Congress not later than two years after the date of the enactment of the Improving America's Schools Act of 1994, based on the review required under subsection (a) recommending legislative and regulatory action to address such barriers, and during the time preceding the submission of such report, shall use waiver authorities authorized under this and other Acts to address such barriers.

**"TITLE XII—SCHOOL FACILITIES INFRASTRUCTURE IMPROVEMENT ACT**

**"SEC. 12001. SHORT TITLE.**

"This title may be cited as the 'Education Infrastructure Act of 1994'.

**"SEC. 12002. FINDINGS.**

"The Congress finds the following:

"(1) According to a 1991 survey conducted by the American Association of School Administrators, 74 percent of all public school buildings in the United States need to be replaced.

"(2) Almost one-third of such buildings were built prior to World War II.

"(3) It is estimated that one of every four public school buildings in the United States is in inadequate condition, and of such buildings, 61 percent need maintenance or major repairs, 43 percent are obsolete, 42 percent contain environmental hazards, 25 percent are overcrowded, and 13 percent are structurally unsound.

"(4) Large numbers of local educational agencies have difficulties securing financing for school facility improvement, including school libraries, media centers, and facilities.

"(5) Improving the quality of public elementary and secondary schools will help our Nation meet the National Education Goals.

"(6) The challenges facing our Nation's public elementary and secondary schools require the concerted and collaborative efforts of all levels of government and all sectors of the community.

**"SEC. 12003. PURPOSE.**

"The purpose of this title is to help the Nation meet the National Education Goals through the provision of Federal funds to enable local educational agencies to meet the costs associated with the improvement of schools within their jurisdiction.

**"SEC. 12004. IMPROVEMENT OF PUBLIC ELEMENTARY AND SECONDARY EDUCATION FACILITIES PROGRAM AUTHORIZED.**

"(a) PROGRAM AUTHORITY.—

"(1) IN GENERAL.—From amounts appropriated under section 12013 for any fiscal year, the Secretary shall award grants to eligible local educational agencies with applications approved under section 12005 to carry out the authorized activities described in section 12007.

"(2) SPECIAL RULE.—The Secretary may reserve not more than 1 percent of the amount appropriated under section 12013 to provide assistance to Indian schools in accordance with this title.

"(b) AWARD CATEGORIES.—

"(1) IN GENERAL.—From the funds appropriated to carry out this title for each fiscal year, the Secretary shall award grants to eligible local educational agencies in each of the following categories:

"(A) Eligible local educational agencies in which the number of students enrolled is less than 2,500.

"(B) Such agencies in which such number is 2,500 or greater but less than 5,000.

"(C) Such agencies in which such number is 5,000 or greater but less than 10,000.

"(D) Such agencies in which such number is 10,000 or greater but less than 25,000.

"(E) Such agencies in which such number is 25,000 or greater but less than 50,000.

"(F) Such agencies in which such number is 50,000 or greater.

"(c) MAXIMUM AWARD AMOUNTS.—The Secretary shall annually set the maximum award amounts for each category described in subsection (b)(1).

**"SEC. 12005. AWARD OF GRANTS.**

"(a) CRITERIA.—The Secretary shall award grants under this title on the basis of—

"(1) high numbers or percentages of the total number of children aged 5 to 17, inclusive, residing in the geographic area served by an eligible local educational agency who are counted under subpart 2 of part A of title I;

"(2) the extent to which the eligible local educational agency lacks the fiscal capacity, including the ability to raise funds through the full use of such agency's bonding capacity and otherwise, to undertake the project without Federal assistance;

"(3) the threat the condition of the physical plant poses to the safety and well-being of students;

"(4) the demonstrated need for the construction, reconstruction, or renovation based on the condition of the facility;

"(5) the age of the facility to be renovated or replaced; and

"(6) such other criteria as the Secretary may prescribe by regulation.

"(b) ALLOCATION AMONG CATEGORIES.—The Secretary shall allocate funds under this title among each of the categories described in paragraph (1) on such basis as the Secretary determines is appropriate, including—

"(1) the relative numbers or percentages of students counted under subpart 2 of part A of title 1; and

"(2) the relative costs of carrying out activities under this title in eligible local educational agencies in each such category.

"(c) FREQUENCY OF AWARDS.—No local educational agency may receive more than one grant under this title in any five-year period.

"(d) SPECIAL RULE.—The Secretary shall only award grants under this title if the Secretary determines that sufficient funds will be provided under this title or from other sources, such as the issuance of bonds, or savings generated from performance contracting, to carry out the activities for which assistance is sought.

**"SEC. 12006. APPLICATIONS.**

"(a) APPLICATIONS REQUIRED.—Each eligible local educational agency desiring to receive a grant under this title shall submit an application to the Secretary.

"(b) APPLICATION CONTENTS.—Each application described in subsection (a) shall contain—

"(1) an assurance that the application was developed in consultation with parents and classroom teachers;

"(2) a description of each architectural, civil, structural, mechanical, or electrical deficiency to be corrected with funds provided under this title, including the priority for the repair of the deficiency;

"(3) a description of the criteria used by the applicant to determine the type of corrective action necessary to meet the purpose of this title;

"(4) a description of the improvement to be supported with funds provided under this title;

"(5) a cost estimate of the proposed improvement;

"(6) an identification of other resources, such as unused bonding capacity, that are available to carry out the activities for which funds are requested under this title;

"(7) a description of how activities supported with funds provided under this title will promote energy conservation; and

"(8) such other information and assurances as the Secretary may reasonably require.

**"SEC. 12007. AUTHORIZED ACTIVITIES.**

"(a) IN GENERAL.—Each eligible local educational agency receiving a grant under this title shall use the grant funds only to ensure the health and safety of students through the repair, renovation, alteration, and construction of a public elementary or secondary school library, media center, or facility, used for academic or vocational instruction.

"(b) PARTICULAR ACTIVITIES.—Subject to subsection (a), each eligible local educational agency receiving a grant under this title may use the grant funds to meet the requirements of section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990.

**"SEC. 12008. GENERAL PROVISIONS.**

"(a) BUDGET AND ACCOUNTING.—In the performance of, and with respect to, the functions, powers, and duties under this title, the Secretary, notwithstanding the provisions of any other law, shall—

"(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by chapter 91 of title 31, United States Code; and

"(2) maintain a set of accounts which shall be audited by the Comptroller General in accordance with the provisions of chapter 35 of title 31, United States Code, but such financial transactions of the Secretary, as the making of loans and vouchers approved by the Secretary, in connection with such financial transactions shall be final and conclusive upon all officers of the Government.

"(b) USE OF FUNDS.—Funds made available to the Secretary pursuant to the provisions of this title shall be deposited in a checking account or

accounts with the Treasurer of the United States. Receipts and assets obtained or held by the Secretary in connection with the performance of functions under this title, and all funds available for carrying out the functions of the Secretary under this title (including appropriations therefor, which are hereby authorized), shall be available, in such amounts as may from year to year be authorized by the Congress, for the administrative expenses of the Secretary in connection with the performance of such functions.

"(c) LEGAL POWERS.—In the performance of, and with respect to, the functions, powers, and duties under this title, the Secretary, notwithstanding the provisions of any other law, may—

"(1) prescribe such rules and regulations as may be necessary to carry out the purposes of this title;

"(2) sue and be sued;

"(3) foreclose on any property or commence any action to protect or enforce any right conferred upon the Secretary by any law, contract, or other agreement, and bid for and purchase at any foreclosure or any other sale any property in connection with which the Secretary has made a loan pursuant to this part;

"(4) in the event of any such acquisition, notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States, complete, administer, remodel and convert, dispose of, lease, and otherwise deal with, such property, but any such acquisition of real property shall not deprive any State or political subdivision of such State civil or criminal jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property;

"(5) sell or exchange at public or private sale, or lease, real or personal property, and sell or exchange any securities or obligations, upon such terms as the Secretary may fix;

"(6) obtain insurance against loss in connection with property and other assets held; and

"(7) include in any contract or instrument made pursuant to this title such other covenants, conditions, or provisions as may be necessary to assure that the purposes of this title will be achieved.

"(d) CONTRACTS FOR SUPPLIES OR SERVICES.—Section 3709 of the Revised Statutes shall not apply to any contract for services or supplies on account of any property acquired pursuant to this subtitle if the amount of such contract does not exceed \$1,000.

"(e) APPLICABILITY OF GOVERNMENT CORPORATION CONTROL ACT.—The provisions of section 9107(a) of title 31, United States Code, which are applicable to corporations or agencies subject to chapter 91 of such title, shall also be applicable to the activities of the Secretary under this title.

**"SEC. 12009. FAIR WAGES.**

"All laborers and mechanics employed by contractors or subcontractors in the performance of any contract and subcontract for the repair, renovation, alteration, or construction, including painting and decorating, of any building or work that is financed in whole or in part by a grant under this title, shall be paid wages not less than those determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (commonly known as the Davis-Bacon Act); as amended (40 U.S.C. 276a-276a-5). The Secretary of Labor shall have the authority and functions set forth in reorganization plan of No. 14 of 1950 (15 FR 3176; 64 Stat. 1267) and section 2 of the Act of June 1, 1934 (commonly known as the Copeland Anti-Kickback Act) as amended (40 U.S.C. 276c, 48 Stat. 948).

**"SEC. 12010. REQUIREMENTS.**

"(a) SPECIAL RULES.—

"(1) MAINTENANCE OF EFFORT.—An eligible local educational agency may receive a grant

under this title for any fiscal year only if the Secretary finds that either the combined fiscal effort per student or the aggregate expenditures of that agency and the State with respect to the provision of free public education by such local educational agency for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the fiscal year for which the determination is made.

"(2) SUPPLEMENT NOT SUPPLANT.—An eligible local educational agency shall use funds received under this title only to supplement the amount of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the repair, renovation, alteration, and construction of school facilities used for educational purposes, and not to supplant such funds.

"(b) GENERAL LIMITATIONS.—

"(1) REAL PROPERTY.—No part of any grant funds under this title shall be used for the acquisition of any interest in real property.

"(2) MAINTENANCE.—Nothing in this title shall be construed to authorize the payment of maintenance costs in connection with any projects constructed in whole or in part with Federal funds provided under this title.

"(3) ENVIRONMENTAL SAFEGUARDS.—All projects carried out with Federal funds provided under this title shall comply with all relevant Federal, State, and local environmental laws and regulations.

"(4) ATHLETIC AND SIMILAR FACILITIES.—No funds received under this title shall be used for stadiums or other facilities that are primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public.

**"SEC. 12011. FEDERAL ASSESSMENT.**

"The Secretary shall reserve not more than 1 percent of funds appropriated for each fiscal year under section 15013—

"(1) to collect such data as the Secretary determines necessary at the school, local, and State levels; and

"(2) to conduct studies and evaluations, including national studies and evaluations, in order to—

"(A) monitor the progress of projects supported with funds provided under this title; and

"(B) evaluate the state of United States public elementary and secondary school libraries, media centers, and facilities; and

"(3) to report to the Congress by July 1, 1997, regarding the findings of the studies and evaluations described in paragraph (2).

**"SEC. 12012. DEFINITIONS.**

"For the purpose of this title—

"(1) the term 'construction' means the alteration or renovation of a building, structure, or facility, including—

"(A) the concurrent installation of equipment; and

"(B) the complete or partial replacement of an existing facility, but only if such replacement is less expensive and more cost-effective than alteration, renovation, or repair of the facility;

"(2) the term 'school' means a public structure suitable for use as a classroom, laboratory, library, media center, or related facility, the primary purpose of which is the instruction of public elementary and secondary school students.

"(3) the term 'eligible local education agency' means a local educational agency in which—

"(A) not less than 15 percent of the children that reside in the geographic area served by such agency are eligible to be counted under subpart 2 of part A of title 1 of this Act; or

"(B) the United States owns Federal property described in section 8015(5), that has an assessed value (determined as of the time or times when acquired) aggregating 90 percent or more of the assessed value of all real property in such agency (determined as of the time or times when so acquired); and

"(C) demonstrates in the application submitted under section 12006 that such agency has urgent repair, renovation, alteration and construction needs for its public elementary or secondary schools used for academic or vocational instruction.

**"SEC. 12013. AUTHORIZATION.**

"There are authorized to be appropriated to carry out this title \$200,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

**"TITLE XIII—SUPPORT AND ASSISTANCE PROGRAMS TO IMPROVE EDUCATION**

**"SEC. 13001. FINDINGS.**

"The Congress finds that—

"(1) high-quality technical assistance can enhance the improvements in teaching and learning achieved through the implementation of programs under this Act;

"(2) comprehensive technical assistance and effective program dissemination are essential ingredients of the overall strategy of the Improving America's Schools Act of 1994 to improve programs and provide all children opportunities to meet challenging State content standards and challenging State student performance standards;

"(3) States, local educational agencies, tribes, and schools serving students with special needs, such as students with limited-English proficiency and students with disabilities, have great need for comprehensive technical assistance in order to use funds under this Act to provide such students with opportunities to learn to challenging State content standards and challenging State student performance standards;

"(4) current technical assistance and dissemination efforts are fragmented and categorical in nature, and thus fail to address adequately the needs of States, local educational agencies and tribes for help in integrating into a coherent strategy for improving teaching and learning the various programs under this Act with State and local programs and other education reform efforts;

"(5) too little creative use is made of technology as a means of providing information and assistance in a cost-effective way;

"(6) comprehensive technical assistance can help schools and school systems focus on improving opportunities for all children to meet challenging State content standards and challenging State student performance standards, as such schools and systems implement programs under this Act;

"(7) comprehensive technical assistance will provide coordinated assistance to help States, local educational agencies, tribes, participating colleges and universities, and schools integrate Federal, State, and local education programs in ways that contribute to improving schools and entire school systems;

"(8) technical assistance in support of programs under this Act should be coordinated with the Department's regional offices, the regional educational laboratories, State Literacy Resource Centers, vocational resource centers, and other technical assistance efforts supported by the Department; and

"(9) technical assistance providers should prioritize assistance for local educational agencies and schools.

**"SEC. 13002. PURPOSE.**

"The purpose of this title is to create a national technical assistance and dissemination system to make available to States, local educational agencies, tribes, schools, and other recipients of funds under this Act technical assistance in—

"(1) administering and implementing programs under this Act;

"(2) implementing school reform programs in a manner that improves teaching and learning for all students;

"(3) coordinating such programs with other Federal, State, and local education plans and activities, so that all students, particularly students at risk of educational failure, are provided opportunities to meet challenging State content standards and challenging State student performance standards; and

"(4) adopting, adapting, and implementing promising and proven practices for improving teaching and learning.

**"PART A—COMPREHENSIVE REGIONAL ASSISTANCE CENTERS**

**"SEC. 13101. PROGRAM AUTHORIZED.**

"(a) COMPREHENSIVE REGIONAL ASSISTANCE CENTERS.—

"(1) IN GENERAL.—The Secretary is authorized to award grants to, or enter into contracts or cooperative agreements with, public or private nonprofit entities or consortia of such entities in order to establish a networked system of 15 comprehensive regional assistance centers to provide comprehensive training and technical assistance, related to administration and implementation of programs under this Act, to States, local educational agencies, schools, tribes, community-based organizations, and other recipients of funds under this Act.

"(2) CONSIDERATION.—In establishing comprehensive regional assistance centers and allocating resources among the centers, the Secretary shall consider—

"(A) the geographic distribution of students assisted under title I;

"(B) the geographic and linguistic distribution of students of limited-English proficiency;

"(C) the geographic distribution of Indian students;

"(D) the special needs of students living in urban and rural areas; and

"(E) the special needs of States and outlying areas in geographic isolation.

"(3) SPECIAL RULE.—The Secretary shall establish 1 comprehensive regional assistance center under this section in Hawaii.

"(b) SERVICE TO INDIANS AND ALASKA NATIVES.—The Secretary shall ensure that each comprehensive regional assistance center that serves a region with a significant population of Indian or Alaska Native students shall—

"(1) be awarded to a consortium which includes a tribally controlled community college or other Indian organization; and

"(2) assist in the development and implementation of instructional strategies, methods and materials which address the specific cultural and other needs of Indian or Alaska Native students.

"(c) ACCOUNTABILITY.—To ensure the quality and effectiveness of the networked system of comprehensive regional assistance centers supported under this part, the Secretary shall—

"(1) develop, in consultation with the Assistant Secretary for Elementary and Secondary Education, the Director of Bilingual Education and Minority Languages Affairs, and the Assistant Secretary for Educational Research and Improvement, a set of performance indicators that assesses whether the work of the centers assists in improving teaching and learning under this Act for all children, particularly children at risk of educational failure;

"(2) conduct surveys every two years of populations to be served under this Act to determine if such populations are satisfied with the access to and quality of such services;

"(3) collect, as part of the Department's reviews of programs under this Act, information about the availability and quality of services provided by the centers, and share that information with the centers; and

"(4) take whatever steps are reasonable and necessary to ensure that each center performs its responsibilities in a satisfactory manner, which may include—

"(A) termination of an award under this part (if the Secretary concludes that performance has been unsatisfactory) and the selection of a new center; and

"(B) whatever interim arrangements the Secretary determines are necessary to ensure the satisfactory delivery of services under this part to an affected region.

"(d) DURATION.—Grants, contracts or cooperative agreements under this section shall be awarded for a period of 5 years.

**"SEC. 13102. REQUIREMENTS OF COMPREHENSIVE REGIONAL ASSISTANCE CENTERS.**

"(a) IN GENERAL.—Each comprehensive regional assistance center established under section 13101(a) shall—

"(1) maintain appropriate staff expertise and provide support, training, and assistance to State educational agencies, tribal divisions of education, local educational agencies, schools, and other grant recipients under this Act, in—

"(A) improving the quality of instruction, curricula, assessments, and other aspects of school reform, supported with funds under title I;

"(B) implementing effective schoolwide programs under section 1114;

"(C) meeting the needs of children served under this Act, including children in high-poverty areas, migratory children, immigrant children, children with limited-English proficiency, neglected or delinquent children, homeless children and youth, Indian children, children with disabilities, and, where applicable, Alaska Native children and Native Hawaiian children;

"(D) implementing high-quality professional development activities for teachers, and where appropriate, administrators, pupil services personnel and other staff;

"(E) improving the quality of bilingual education, including programs that emphasize English and native language proficiency and promote multicultural understanding;

"(F) creating safe and drug-free environments, especially in areas experiencing high levels of drug use and violence in the community and school;

"(G) implementing educational applications of technology;

"(H) coordinating services and programs to meet the needs of students so that students can fully participate in the educational program of the school;

"(I) expanding the involvement and participation of parents in the education of their children;

"(J) reforming schools, school systems, and the governance and management of schools;

"(K) evaluating programs; and

"(L) meeting the special needs of students living in urban and rural areas and the special needs of local educational agencies serving urban and rural areas;

"(2) ensure that technical assistance staff have sufficient training, knowledge, and expertise in how to integrate and coordinate programs under this Act with each other, as well as with other Federal, State, and local programs and reforms;

"(3) provide technical assistance using the highest quality and most cost-effective strategies possible;

"(4) coordinate services, work cooperatively, and regularly share information with, the regional educational laboratories, the Eisenhower regional consortia under part C, research and development centers, State literacy centers authorized under the National Literacy Act of 1991, and other entities engaged in research, development, dissemination, and technical assistance activities which are supported by the Department as part of a Federal technical assistance system, to provide a broad range of support services to schools in the region while minimizing the duplication of such services;

"(5) work collaboratively with the Department's regional offices;

"(6) consult with representatives of State educational agencies, local educational agencies, and populations served under this Act;

"(7) provide services to States, local educational agencies, tribes, and schools, in coordination with the National Diffusion Network State Facilitators activities under section 13201, in order to better implement the purposes of this part and provide the support and assistance diffusion agents need to carry out such agents' mission effectively; and

"(8) provide professional development services to State educational agencies, local educational agencies, and the National Diffusion Network State Facilitators to increase the capacity of such entities to provide high-quality technical assistance in support of programs under this Act.

"(b) PRIORITY.—Each comprehensive regional assistance center assisted under this part shall give priority to servicing—

"(1) schoolwide programs under section 1114; and

"(2) local educational agencies and Bureau-funded schools with the highest percentages or numbers of children in poverty.

**"SEC. 13103. MAINTENANCE OF SERVICE AND APPLICATION REQUIREMENTS.**

"(a) MAINTENANCE OF SERVICE.—The Secretary shall ensure that the comprehensive regional assistance centers funded under this part provide technical assistance services that address the needs of educationally disadvantaged students, including students in urban and rural areas, and bilingual, migrant, immigrant, and Indian students, that are at least comparable to the level of such technical assistance services provided under programs administered by the Secretary on the day preceding the date of enactment of the Improving America's Schools Act of 1994.

"(b) APPLICATION REQUIREMENTS.—Each entity or consortium desiring assistance under this part shall submit an application to the Secretary at such time, in such manner and accompanied by such information, as the Secretary may require. Each such application shall—

"(1) demonstrate how the comprehensive regional assistance center will provide expertise and services in the areas described in section 13102;

"(2) demonstrate how such centers will work with the National Diffusion Network under section 13201 to conduct outreach to local educational agencies receiving priority under section 13401;

"(3) demonstrate support from States, local educational agencies and tribes in the area to be served;

"(4) demonstrate how such centers will ensure a fair distribution of services to urban and rural areas; and

"(5) provide such other information as the Secretary may require.

**"SEC. 13104. TRANSITION.**

"(a) IN GENERAL.—The Secretary shall use funds appropriated to carry out this part for fiscal years 1995 and 1996 in order to ensure an orderly transition and phase in of the comprehensive regional assistance centers assisted under this part.

"(b) EXTENSION OF PREVIOUS CENTERS.—

"(1) IN GENERAL.—The Secretary shall, notwithstanding any other provision of law, use funds appropriated under section 13105 to extend or continue contracts and grants for existing categorical technical assistance centers assisted under this Act (as such Act was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) through fiscal year 1996, and take other necessary steps to ensure a smooth transition of

services provided under this part and that such services will not be interrupted, curtailed, or substantially diminished.

"(2) STAFF EXPERTISE.—In planning for the competition for the new comprehensive regional assistance centers under this part, the Secretary may draw on the expertise of staff from existing categorical assistance centers assisted under this Act prior to date of enactment of the Improving America's Schools Act of 1994.

**"SEC. 13105. AUTHORIZATION OF APPROPRIATIONS.**

"For the purpose of carrying out this part, there are authorized to be appropriated \$70,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

**"PART B—NATIONAL DIFFUSION NETWORK**

**"SEC. 13201. PROGRAM AUTHORIZED.**

"(a) AUTHORITY.—

"(1) IN GENERAL.—In order to implement the purposes of this title, the Secretary is authorized to establish the National Diffusion Network (hereafter referred to in this Act as 'NDN') to carry out a State-based outreach, consultation, training, and dissemination program.

"(2) PROGRAM REQUIREMENTS.—In carrying out the program under this part, the Secretary shall award grants and contracts to National Diffusion Network State Facilitators in each State and outlying area, and to the Bureau of Indian Affairs, in order to assist State and local educational agencies, schools, and other appropriate educational entities—

"(A) to identify and secure appropriate, high-quality technical assistance from the comprehensive regional assistance centers under part A and other sources; and

"(B) to identify and implement exemplary or promising educational programs and practices.

"(b) ELIGIBLE ENTITIES.—The Secretary shall award grants and contracts under this section to public or private nonprofit organizations or institutions with demonstrated expertise in the areas of applied education research and program dissemination.

"(c) ADMINISTRATION.—The program under this part shall be administered through the Office of Reform Assistance and Dissemination established under section 941(b) of the Educational Research, Development, Dissemination, and Improvement Act of 1994.

"(d) COORDINATION.—The National Diffusion Network State Facilitators shall work in close cooperation, and coordinate their activities, with the comprehensive regional assistance centers established under part A.

"(e) STATE FACILITATOR ACTIVITIES.—The National Diffusion Network State Facilitators shall provide professional development and technical assistance services to assist State educational agencies, local educational agencies, tribal divisions of education, schools, family and adult literacy programs, and other entities assisted under this Act, in—

"(1) defining such entities' technical assistance needs and aligning such needs with school reform under title I, professional development, and technology plans;

"(2) securing the technical assistance and professional development services that can best fulfill such needs by utilizing the services of the comprehensive regional assistance centers, the regional education laboratories, the Eisenhower regional consortia, State Literacy Resource Centers authorized under the National Literacy Act of 1991 and other technical assistance providers, including local providers of professional development services;

"(3) identifying educational technology needs and securing the necessary technical assistance to address such needs in coordination with the Eisenhower regional consortia under part C and

the regional technical assistance and professional development consortia under subpart 3 of title III; and

"(4) utilizing technology, including regional and national electronic networks, to increase such entities' access to technical assistance, professional development services, and dissemination of effective programs and promising practices.

"(f) ADDITIONAL DUTIES.—In addition, National Diffusion Network State Facilitators shall—

"(1) disseminate information about school reform and effective and promising practices, and help local educational agencies and schools adapt such reform and practices to such agencies' needs;

"(2) identify educational programs and practices for possible dissemination throughout the State and Nation;

"(3) promote and facilitate teacher networks throughout the State;

"(4) develop and implement an aggressive outreach plan for reaching the local educational agencies and schools receiving priority under section 13401; and

"(5) provide such other outreach, coordination, and dissemination services as may be necessary to achieve the purposes of this title.

**"(g) NATIONAL DIFFUSION NETWORK EFFECTIVE PROGRAMS AND PROMISING PRACTICES SYSTEM.—**

"(1) IN GENERAL.—The Secretary shall develop a system of validating effective programs and promising practices for dissemination through the National Diffusion Network. Such system may include exemplary programs funded through any office of the Department, the National Science Foundation, or other Federal agencies and shall be coordinated, aligned with, and administered by, the Office of Reform Assistance and Dissemination established under section 941(b) of the Educational Research, Development, Dissemination, and Improvement Act of 1994.

"(2) PRIORITY.—The Secretary shall give priority to identifying, validating, and disseminating effective schoolwide projects, programs addressing the needs of high poverty schools, and programs with the capacity to offer high-quality, sustained technical assistance. The Office of Educational Research and Improvement Office of Reform Assistance and Dissemination shall also administer a grant program for the purpose of dissemination and the provision of technical assistance regarding such system.

"(3) PRIORITY OF SERVICES.—The National Diffusion Network State Facilitators shall give priority in providing the services described in this section to—

"(A) schoolwide program under section 1114; and

"(B) local educational agencies and Bureau-funded schools with the highest percentages or numbers of children in poverty.

**"SEC. 13202. AUTHORIZATION OF APPROPRIATIONS.**

"For the purpose of carrying out this part, there are authorized to be appropriated \$25,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

**"PART C—EISENHOWER REGIONAL MATHEMATICS AND SCIENCE EDUCATION CONSORTIA**

**"SEC. 13301. PROGRAM ESTABLISHED.**

"(a) IN GENERAL.—

"(1) GRANTS AUTHORIZED.—The Secretary, in consultation with the Director of the National Science Foundation, is authorized to award grants or contracts to eligible entities to enable such entities to establish and operate regional mathematics and science education consortia for the purpose of—

"(A) disseminating exemplary mathematics and science education instructional materials; and

"(B) providing technical assistance for the implementation of teaching methods and assessment tools for use by elementary and secondary school students, teachers and administrators.

"(2) NUMBER.—The Secretary, in accordance with the provisions of this section, shall award at least one grant or contract to an eligible entity in each region.

"(3) SPECIAL RULE.—In any fiscal year, if the amount made available pursuant to section 13308 is less than \$4,500,000, then the Secretary may waive the provisions of paragraph (2) and award grants or contracts of sufficient size, scope, and quality to carry out this section.

"(4) DESIGNATION.—Each regional consortium assisted under this section shall be known as an 'Eisenhower regional consortium'.

"(b) GRANT TERM AND REVIEW.—Grants or contracts under this part shall be awarded for a period of not more than five years and shall be reviewed before the end of the 30-month period beginning on the date the grant or contract is awarded. Grants or contracts under this part shall be awarded before the end of the 12-month period beginning on the date of the enactment of an Act making appropriations to carry out this part.

"(c) AMOUNT.—In awarding grants or contracts under this part, the Secretary shall ensure that there is a relatively equal distribution of the funds made available among the regions, except that the Secretary may award additional funds to a regional consortium on the basis of population and geographical conditions of the region being served.

**"SEC. 13302. USE OF FUNDS.**

"Funds provided under this part may be used by a regional consortium, under the direction of a regional board established under section 13304, to—

"(1) work cooperatively with the other regional consortia, the Eisenhower National Clearinghouse for Science and Mathematics Education established under section 2102(b) and federally-funded technical assistance providers to more effectively accomplish the activities described in this section;

"(2) assist, train and provide technical assistance to classroom teachers, administrators, and other educators to identify, implement, assess or adapt the instructional materials, teaching methods and assessment tools described in section 13301(a)(1);

"(3) provide for the training of classroom teachers to enable such teachers to instruct other teachers, administrators, and educators in the use of the instructional materials, teaching methods and assessment tools described in section 13301(a)(1) in the classroom;

"(4) when necessary, provide financial assistance to enable teachers and other educators to attend and participate in the activities of the regional consortium;

"(5) implement programs and activities designed to meet the needs of groups that are underrepresented in, and underserved by, mathematics and science education;

"(6) assist State and local educational agencies in identifying science equipment needs and help such agencies or consortia thereof assess the need for and desirability of regional mathematics and science academies;

"(7) develop and disseminate early childhood education mathematics and science instructional materials;

"(8) disseminate information regarding informal mathematics and science education activities and programs offered by Federal agencies and private or public agencies and institutions within the region;

"(9) collect data on activities assisted under this part in order to evaluate the effectiveness of the activities of the regional consortia;

"(10) identify exemplary teaching practices and materials from within the region and communicate such practices and materials to the Eisenhower National Clearinghouse for Mathematics and Science Education;

"(11) communicate, on a regular basis, with entities within the region who are delivering services to students and teachers of mathematics and science;

"(12) assist in the development and evaluation of State and regional plans and activities that hold promise of bringing about systemic reform in student performance in mathematics and science; and

"(13) increase the use of informal education entities (such as science technology centers, museums, libraries, Saturday academies, and 4H programs) for educational purposes to expand student knowledge and understanding.

**"SEC. 13303. APPLICATION AND REVIEW.**

"(a) IN GENERAL.—Each eligible entity desiring a grant or contract under this part shall submit an application to the Secretary at such time, in such manner, and accompanied by such additional information as the Secretary may reasonably require. Each such application shall—

"(1) demonstrate that the eligible entity has demonstrated expertise in the fields of mathematics and science education;

"(2) demonstrate that the eligible entity shall implement and disseminate mathematics and science education instructional materials, teaching methods, and assessment tools through a consortium of the region's mathematics and science education organizations and agencies;

"(3) demonstrate that the eligible entity shall carry out the functions of the regional consortium;

"(4) demonstrate that emphasis will be given to programs and activities designed to meet the needs of groups that are underrepresented in, and underserved by, mathematics and science education;

"(5) demonstrate that the business community in the region served by the regional consortium will play an integral role in designing and supporting the regional consortium's work;

"(6) demonstrate that the eligible entity will consider the resources of telecommunications partnerships assisted under the Star Schools Program Assistance Act (as such Act was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) in carrying out the provisions of this part, where appropriate; and

"(7) assure that the entity will conduct its activities and supervise its personnel in a manner that effectively ensures compliance with the copyright laws of the United States under title 17, United States Code.

**"(b) APPROVAL OF APPLICATION.—**

"(1) IN GENERAL.—The Secretary shall approve or disapprove applications submitted pursuant to subsection (a) in accordance with the criteria and procedures established under paragraph (2).

"(2) PROCEDURES AND CRITERIA.—The Secretary shall develop procedures and criteria designed to ensure that grants or contracts are competitively awarded on the basis of merit determined under a peer review process.

"(3) NATIONAL PANEL.—(A) The Secretary, in consultation with the Director, shall establish a national panel, or to the extent necessary, panels, to submit to the Secretary recommendations for awards of grants or contracts under this part. The Secretary shall appoint the members of such panel or panels.

"(B) Each panel appointed under subparagraph (A) shall include participation, to the extent feasible, from each region.

**"SEC. 13304. REGIONAL BOARDS.**

"(a) IN GENERAL.—Each eligible entity receiving a grant or contract under this part shall es-

tablish a regional board to oversee the administration and establishment of program priorities for the regional consortium established by such eligible entity. Such regional board shall be broadly representative of the agencies and organizations participating in the regional consortium.

"(b) PROHIBITION ON USE OF FEDERAL FUNDS.—No Federal funds may be used for the establishment or operation of a regional board required by subsection (a), except that at the discretion of a regional board, Federal funds may be used to provide assistance such as travel and accommodations for board members who could not otherwise afford to participate as members of the board.

**"SEC. 13305. PAYMENTS; FEDERAL SHARE; NON-FEDERAL SHARE.**

"(a) PAYMENTS.—The Secretary shall pay to each eligible entity having an application approved under section 13303 the Federal share of the cost of the activities described in the application.

"(b) FEDERAL SHARE.—For the purpose of subsection (a), the Federal share shall be 80 percent.

"(c) NON-FEDERAL SHARE.—The non-Federal share of the cost of activities described in the application submitted under section 13303 may be in cash or in kind, fairly evaluated. At least 10 percent of such non-Federal share shall be from sources other than the Federal Government, or State or local government.

**"SEC. 13306. EVALUATION.**

"(a) EVALUATION REQUIRED.—The Secretary, through the Office of Educational Research and Improvement and in accordance with section 14701, shall collect sufficient data on, and evaluate the effectiveness of, the activities of each regional consortium.

"(b) ASSESSMENT.—The evaluations described in paragraph (1) shall include an assessment of the effectiveness of the regional consortium in meeting the needs of the schools, teachers, administrators and students in the region.

"(c) REPORT.—At the end of each grant or contract period, the Secretary shall submit to the Congress a report on the effectiveness of the programs conducted at each regional consortium.

**"SEC. 13307. DEFINITIONS.**

"For purposes of this part:

"(1) The term 'eligible entity' means—

"(A) a private nonprofit organization of demonstrated effectiveness;

"(B) an institution of higher education;

"(C) an elementary or secondary school;

"(D) a State or local educational agency;

"(E) a regional educational laboratory in consortium with the research and development center established under section 931(c)(1)(B)(i) of the Educational Research, Development, Dissemination, and Improvement Act of 1994; or

"(F) any combination of the entities described in subparagraphs (A) through (E), with demonstrated expertise in mathematics and science education.

"(2) The terms 'mathematics' and 'science' include the technology education associated with mathematics and science, respectively.

"(3) The term 'region' means a region of the United States served by a regional education laboratory that is supported by the Secretary pursuant to section 405(d)(4)(A)(i) of the General Education Provisions Act (as such section was in existence on the day preceding the date of enactment of the Goals 2000: Educate America Act).

"(4) The term 'regional consortium' means each regional mathematics and science education consortium established pursuant to section 13301.

"(5) The term 'State agency for higher education' means the State board of higher education or other agency or officer primarily responsible for the State supervision of higher

education, or, if there is no such officer or agency, an officer or agency designated for the purpose of carrying out this part by the Governor or by State law.

**"SEC. 13308. AUTHORIZATION OF APPROPRIATIONS.**

"There are authorized to be appropriated \$23,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this part.

**"PART D—TECHNOLOGY-BASED TECHNICAL ASSISTANCE**

**"SEC. 13401. TECHNOLOGY-BASED TECHNICAL ASSISTANCE.**

"The Secretary is authorized to provide a technology-based technical assistance service that will—

"(1) support the administration and implementation of programs under this Act by providing information, including legal and regulatory information, and technical guidance and information, about best practices; and

"(2) be accessible to all States, local educational agencies, schools, community-based organizations and others who are recipients of funds under this Act.

**"TITLE XIV—GENERAL PROVISIONS**

**"PART A—DEFINITIONS**

**"SEC. 14101. DEFINITIONS.**

"Except as otherwise provided, for the purposes of this Act, the following terms have the following meanings:

"(1) **AVERAGE DAILY ATTENDANCE.**—(A) Except as provided otherwise by State law or this paragraph, the term 'average daily attendance' means—

"(i) the aggregate number of days of attendance of all students during a school year; divided by

"(ii) the number of days school is in session during such school year.

"(B) The Secretary shall permit the conversion of average daily membership (or other similar data) to average daily attendance for local educational agencies in States that provide State aid to local educational agencies on the basis of average daily membership or such other data.

"(C) If the local educational agency in which a child resides makes a tuition or other payment for the free public education of the child in a school located in another school district, the Secretary shall, for purposes of this Act—

"(i) consider the child to be in attendance at a school of the agency making such payment; and

"(ii) not consider the child to be in attendance at a school of the agency receiving such payment.

"(D) If a local educational agency makes a tuition payment to a private school or to a public school of another local educational agency for a child with disabilities, as defined in section 602(a)(1) of the Individuals with Disabilities Education Act, the Secretary shall, for the purposes of this Act, consider such child to be in attendance at a school of the agency making such payment.

"(2) **AVERAGE PER-PUPIL EXPENDITURE.**—The term 'average per-pupil expenditure' means, in the case of a State or of the United States—

"(A) without regard to the source of funds—

"(i) the aggregate current expenditures, during the third fiscal year preceding the fiscal year for which the determination is made (or, if satisfactory data for that year are not available, during the most recent preceding fiscal year for which satisfactory data are available) of all local educational agencies in the State or, in the case of the United States for all States (which, for the purpose of this paragraph, means the 50 States and the District of Columbia); plus

"(ii) any direct current expenditures by the State for the operation of such agencies; divided by

"(B) the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

"(3) **CHILD.**—The term 'child' means any person within the age limits for which the State provides free public education.

"(4) **COMMUNITY-BASED ORGANIZATION.**—The term 'community-based organization' means a public or private nonprofit organization of demonstrated effectiveness that—

"(A) is representative of a community or significant segments of a community; and

"(B) provides educational or related services to individuals in the community.

"(5) **CONSOLIDATED LOCAL APPLICATION.**—The term 'consolidated local application' means an application submitted by a local educational agency pursuant to section 14302.

"(6) **CONSOLIDATED LOCAL PLAN.**—The term 'consolidated local plan' means a plan submitted by a local educational agency pursuant to section 14302.

"(7) **CONSOLIDATED STATE APPLICATION.**—The term 'consolidated State application' means an application submitted by a State educational agency pursuant to section 14302.

"(8) **CONSOLIDATED STATE PLAN.**—The term 'consolidated State plan' means a plan submitted by a State educational agency pursuant to section 14302.

"(9) **COUNTY.**—The term 'county' means one of the divisions of a State used by the Secretary of Commerce in compiling and reporting data regarding counties.

"(10) **COVERED PROGRAM.**—The term 'covered program' means each of the programs authorized by—

"(A) part A of title I;

"(B) part C of title I;

"(C) title II (other than section 2103 and part C);

"(D) subpart 2 of part A of title III;

"(E) part A of title IV (other than section 4114); and

"(F) title VI.

"(11) The term 'current expenditures' means expenditures for free public education—

"(A) including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities; but

"(B) not including expenditures for community services, capital outlay, and debt service, or any expenditures made from funds received under title I and title VI.

"(12) **DEPARTMENT.**—The term 'Department' means the Department of Education.

"(13) **EDUCATIONAL SERVICE AGENCY.**—The term 'educational service agency' means a regional public multiservice agency authorized by State statute to develop, manage, and provide services or programs to local educational agencies.

"(14) **ELEMENTARY SCHOOL.**—The term 'elementary school' means a nonprofit institutional day or residential school that provides elementary education, as determined under State law.

"(15) **FREE PUBLIC EDUCATION.**—The term 'free public education' means education that is provided—

"(A) at public expense, under public supervision and direction, and without tuition charge; and

"(B) as elementary or secondary school education as determined under applicable State law, except that such term does not include any education provided beyond grade 12.

"(16) **GIFTED AND TALENTED.**—The term 'gifted and talented', when used with respect to students, children or youth, means students, children or youth who give evidence of high per-

formance capability in areas such as intellectual, creative, artistic, or leadership capacity, or in specific academic fields, and who require services or activities not ordinarily provided by the school in order to fully develop such capabilities.

"(17) **INSTITUTION OF HIGHER EDUCATION.**—The term 'institution of higher education' has the meaning given that term in section 1201(a) of the Higher Education Act of 1965.

"(18) **LOCAL EDUCATIONAL AGENCY.**—(A) The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools.

"(B) The term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

"(C) The term includes an elementary or secondary school funded by the Bureau of Indian Affairs but only to the extent that such inclusion makes such school eligible for programs for which specific eligibility is not provided to such school in another provision of law and such school does not have a student population that is smaller than the student population of the local educational agency receiving assistance under this Act with the smallest student population, except that such school shall not be subject to the jurisdiction of any State educational agency other than the Bureau of Indian Affairs.

"(19) **MENTORING.**—The term 'mentoring' means a program in which an adult works with a child or youth on a 1-to-1 basis, establishing a supportive relationship, providing academic assistance, and introducing the child or youth to new experiences that enhance the child or youth's ability to excel in school and become a responsible citizen.

"(20) **OTHER STAFF.**—The term 'other staff' means pupil services personnel, librarians, career guidance and counseling personnel, education aides, and other instructional and administrative personnel.

"(21) **OUTLYING AREA.**—The term 'outlying area' means the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and for the purpose of section 1121 and any other discretionary grant program under this Act, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

"(22) **PARENT.**—The term 'parent' includes a legal guardian or other person standing in loco parentis.

"(23) **PUBLIC TELECOMMUNICATION ENTITY.**—The term 'public telecommunication entity' has the same meaning given to such term in section 397(12) of the Communications Act of 1934.

"(24) **PUPIL SERVICES PERSONNEL; PUPIL SERVICES.**—(A) The term 'pupil services personnel' means school counselors, school social workers, school psychologists, and other qualified professional personnel involved in providing assessment, diagnosis, counseling, educational, therapeutic, and other necessary services (including related services as such term is defined in section 602(a)(17) of the Individuals with Disabilities Education Act) as part of a comprehensive program to meet student needs.

"(B) The term 'pupil services' means the services provided by pupil services personnel.

"(25) **SECONDARY SCHOOL.**—The term 'secondary school' means a nonprofit institutional day or residential school that provides secondary education, as determined under State law, except that such term does not include any education beyond grade 12.

"(26) SECRETARY.—The term 'Secretary' means the Secretary of Education.

"(27) STATE.—The term 'State' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas.

"(28) STATE EDUCATIONAL AGENCY.—The term 'State educational agency' means the agency primarily responsible for the State supervision of public elementary and secondary schools.

"(29) TECHNOLOGY.—The term 'technology' means the latest state-of-the-art technology products and services, such as closed circuit television systems, educational television or radio programs and services, cable television, satellite, copper fiber optic transmission, computer hardware and software, video and audio laser and CD-ROM disks, video and audio tapes, including interactive forms of such products and services, or other technologies.

**"SEC. 14102. APPLICABILITY OF THIS TITLE.**

"Parts B, C, D, E, and F of this title do not apply to title VIII of this Act.

**"SEC. 14103. APPLICABILITY TO BUREAU OF INDIAN AFFAIRS OPERATED SCHOOLS.**

"For purposes of any competitive program under this Act, a consortia of schools operated by the Bureau of Indian Affairs, a school operated under a contract or grant with the Bureau of Indian Affairs in consortia with another contract or grant school or tribal or community organization, or a Bureau of Indian Affairs school in consortia with an institution of higher education, a contract or grant school and tribal or community organization shall be given the same consideration as a local educational agency.

**"PART B—FLEXIBILITY IN THE USE OF ADMINISTRATIVE AND OTHER FUNDS**

**"SEC. 14201. CONSOLIDATION OF STATE ADMINISTRATIVE FUNDS FOR ELEMENTARY AND SECONDARY EDUCATION PROGRAMS.**

"(a) CONSOLIDATION OF ADMINISTRATIVE FUNDS.—

"(1) IN GENERAL.—A State educational agency may consolidate the amounts specifically made available to such agency for State administration under one or more of the programs specified under paragraph (2) if such State educational agency can demonstrate that the majority of such agency's resources come from non-Federal sources.

"(2) APPLICABILITY.—This section applies to programs under title I, those covered programs described in subparagraphs (C), (D), (E), and (F) of section 14101(10), and administrative funds under section 308(c) of the Goals 2000: Educate America Act.

**"(b) USE OF FUNDS.—**

"(1) IN GENERAL.—A State educational agency shall use the amount available under this section for the administration of the programs included in the consolidation under subsection (a).

"(2) ADDITIONAL USES.—A State educational agency may also use funds available under this section for administrative activities designed to enhance the effective and coordinated use of funds under the programs included in the consolidation under subsection (a), such as—

"(A) the coordination of such programs with other Federal and non-Federal programs;

"(B) the establishment and operation of peer-review mechanisms under this Act;

"(C) the administration of this title;

"(D) the dissemination of information regarding model programs and practices; and

"(E) technical assistance under programs specified in subsection (a)(2).

"(c) RECORDS.—A State educational agency that consolidates administrative funds under this section shall not be required to keep separate records, by individual program, to account for costs relating to the administration of pro-

grams included in the consolidation under subsection (a).

"(d) REVIEW.—To determine the effectiveness of State administration under this section, the Secretary may periodically review the performance of State educational agencies in using consolidated administrative funds under this section and take such steps as the Secretary finds appropriate to ensure the effectiveness of such administration.

"(e) UNUSED ADMINISTRATIVE FUNDS.—If a State educational agency does not use all of the funds available to such agency under this section for administration, such agency may use such funds during the applicable period of availability as funds available under one or more programs included in the consolidation under subsection (a).

"(f) CONSOLIDATION OF FUNDS FOR STANDARDS AND ASSESSMENT DEVELOPMENT.—In order to develop challenging State standards and assessments, a State educational agency may consolidate the amounts made available to such agency for such purposes under title I of this Act and title III of the Goals 2000: Educate America Act.

**"SEC. 14202. SINGLE LOCAL EDUCATIONAL AGENCY STATES.**

"A State educational agency that also serves as a local educational agency, in such agency's applications or plans under this Act, shall describe how such agency will eliminate duplication in the conduct of administrative functions.

**"SEC. 14203. CONSOLIDATION OF FUNDS FOR LOCAL ADMINISTRATION.**

"(a) GENERAL AUTHORITY.—In accordance with regulations of the Secretary, a local educational agency, with the approval of its State educational agency, may consolidate and use for the administration of one or more covered programs for any fiscal year not more than the percentage, established in each covered program, of the total amount available to the local educational agency under such covered programs.

"(b) STATE PROCEDURES.—Within one year from the date of enactment of the Improving America's Schools Act of 1994, a State educational agency shall, in collaboration with local educational agencies in the State, establish procedures for responding to requests from local educational agencies to consolidate administrative funds under subsection (a) and for establishing limitations on the amount of funds under covered programs that may be used for administration on a consolidated basis.

"(c) CONDITIONS.—A local educational agency that consolidates administrative funds under this section for any fiscal year shall not use any other funds under the programs included in the consolidation for administration for that fiscal year.

"(d) USES OF ADMINISTRATIVE FUNDS.—A local educational agency that consolidates administrative funds under this section may use such consolidated funds for the administration of covered programs and for the uses described in section 14201(b)(2).

"(e) RECORDS.—A local educational agency that consolidates administrative funds under this section shall not be required to keep separate records, by individual covered program, to account for costs relating to the administration of covered programs included in the consolidation.

**"SEC. 14204. ADMINISTRATIVE FUNDS STUDIES.**

"(a) FEDERAL FUNDS STUDY.—

"(1) IN GENERAL.—The Secretary shall conduct a study of the use of funds under this Act for the administration, by State and local educational agencies, of all covered programs, including the percentage of grant funds used for such purpose in all covered programs.

"(2) STATE DATA.—Beginning in fiscal year 1995 and each succeeding fiscal year thereafter,

each State educational agency which receives funds under title I shall submit to the Secretary a report on the use of title I funds for the State administration of activities assisted under title I. Such report shall include the proportion of State administrative funds provided under section 1603 that are expended for—

"(A) basic program operation and compliance monitoring;

"(B) statewide program services such as development of standards and assessments, curriculum development, and program evaluation; and

"(C) technical assistance and other direct support to local educational agencies and schools.

"(3) FEDERAL FUNDS REPORT.—The Secretary shall complete the study conducted under this section not later than July 1, 1997, and shall submit to the President and the appropriate committees of the Congress a report regarding such study within 30 days of the completion of such study.

"(4) RESULTS.—Based on the results of the study described in subsection (a)(1), which may include collection and analysis of the data under paragraph (2) and section 410(b) of the Improving America's Schools Act of 1994, the Secretary shall—

"(A) develop a definition of what types of activities constitute the administration of programs under this Act by State and local educational agencies; and

"(B) within one year of the completion of such study, promulgate final regulations or guidelines regarding the use of funds for administration under all programs, including the use of such funds on a consolidated basis and limitations on the amount of such funds that may be used for administration where such limitation is not otherwise specified in law.

"(b) GENERAL ADMINISTRATIVE FUNDS STUDY AND REPORT.—Upon the date of completion of the pilot model data system described in section 410(b) of the Improving America's Schools Act of 1994, the Secretary shall study the information obtained through the use of such data system and other relevant information, as well as any other data systems which are in use on such date that account for administrative expenses at the school, local educational agency, and State educational agency level, and shall report to the Congress not later than July 1, 1997, regarding—

"(1) the potential for the reduction of administrative expenses at the school, local educational agency, and State educational agency levels;

"(2) the potential usefulness of such data system to reduce such administrative expenses;

"(3) any other methods which may be employed by schools, local educational agencies or State educational agencies to reduce administrative expenses and maximize the use of funds for functions directly affecting student learning; and

"(4) if appropriate, steps which may be taken to assist schools, local educational agencies and State educational agencies to account for and reduce administrative expenses.

**"SEC. 14205. CONSOLIDATED SET-ASIDE FOR DEPARTMENT OF THE INTERIOR FUNDS.**

"(a) GENERAL AUTHORITY.—

"(1) TRANSFER.—The Secretary shall transfer to the Department of the Interior, as a consolidated amount for covered programs, the Indian education programs under part A of title IX of this Act, and the education for homeless children and youth program under subtitle B of title VII of the Stewart B. McKinney Homeless Assistance Act, the amounts allotted to the Department of the Interior under those programs.

"(2) AGREEMENT.—(A) The Secretary and the Secretary of the Interior shall enter into an agreement, consistent with the requirements of

the programs specified in paragraph (1), for the distribution and use of those program funds under terms that the Secretary determines best meet the purposes of those programs.

"(B) The agreement shall—

"(i) set forth the plans of the Secretary of the Interior for the use of the amount transferred, the steps to be taken to achieve the National Education Goals, and performance measures to assess program effectiveness, including measurable goals and objectives; and

"(ii) be developed in consultation with Indian tribes.

"(b) ADMINISTRATION.—The Department of the Interior may use not more than 1.5 percent of the funds consolidated under this section for such department's costs related to the administration of the funds transferred under this section.

**"SEC. 14206. AVAILABILITY OF UNNEEDED PROGRAM FUNDS.**

"(a) UNNEEDED PROGRAM FUNDS.—With the approval of its State educational agency, a local educational agency that determines for any fiscal year that funds under a covered program (other than part A of title I) are not needed for the purpose of that covered program, may use such funds, not to exceed five percent of the total amount of such local educational agency's funds under that covered program, for the purpose of another covered program.

"(b) COORDINATION OF SERVICES.—A local educational agency, individual school, or consortium of schools may use a total of not more than five percent of the funds such agency, school, or consortium, respectively, receives under this Act for the establishment and implementation of a coordinated services project in accordance with the requirements of title XI of this Act.

**"PART C—COORDINATION OF PROGRAMS; CONSOLIDATED STATE AND LOCAL PLANS AND APPLICATIONS**

**"SEC. 14301. PURPOSE.**

"It is the purpose of this part to improve teaching and learning by encouraging greater cross-program coordination, planning, and service delivery under this Act and enhanced integration of programs under this Act with educational activities carried out with State and local funds.

**"SEC. 14302. OPTIONAL CONSOLIDATED STATE PLANS OR APPLICATIONS.**

"(a) GENERAL AUTHORITY.—

"(1) SIMPLIFICATION.—In order to simplify application requirements and reduce the burden for State educational agencies under this Act, the Secretary, in accordance with subsection (b), shall establish procedures and criteria under which a State educational agency may submit a consolidated State plan or a consolidated State application meeting the requirements of this section for—

"(A) each of the covered programs in which the State participates; and

"(B) the additional programs described in paragraph (2).

"(2) ADDITIONAL PROGRAMS.—A State educational agency may also include in its consolidated State plan or consolidated State application—

"(A) the Even Start program under part B of title I;

"(B) the Prevention and Intervention Programs for Youth Who Are Neglected, Delinquent, or At-Risk of Dropping Out under part D of title I;

"(C) programs under part A of title II of the Carl D. Perkins Vocational and Applied Technology Education Act;

"(D) programs under the Goals 2000: Educate America Act;

"(E) programs under the School-to-Work Opportunities Act of 1994; and

"(F) such other programs as the Secretary may designate.

"(3) CONSOLIDATED APPLICATIONS AND PLANS.—A State educational agency that submits a consolidated State plan or a consolidated State application under this section shall not be required to submit separate State plans or applications under any of the programs to which the consolidated State plan or consolidated State application under this section applies.

"(b) COLLABORATION.—

"(1) IN GENERAL.—In establishing criteria and procedures under this section, the Secretary shall collaborate with State educational agencies and, as appropriate, with other State agencies, local educational agencies, public and private nonprofit agencies, organizations, and institutions, private schools, and representatives of parents, students, and teachers.

"(2) CONTENTS.—Through the collaborative process described in subsection (b)(1), the Secretary shall establish, for each program under the Act to which this section applies, the descriptions, information, assurances, and other material required to be included in a consolidated State plan or consolidated State application.

"(3) NECESSARY MATERIALS.—The Secretary shall require only descriptions, information, assurances, and other materials that are absolutely necessary for the consideration of the consolidated State plan or consolidated State application.

**"SEC. 14303. GENERAL APPLICABILITY OF STATE EDUCATIONAL AGENCY ASSURANCES.**

"(a) ASSURANCES.—A State educational agency that submits a consolidated State plan or consolidated State application under this Act, whether separately or under section 14302, shall have on file with the Secretary a single set of assurances, applicable to each program for which such plan or application is submitted, that provides that—

"(1) each such program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

"(2)(A) the control of funds provided under each such program and title to property acquired with program funds will be in a public agency, in a nonprofit private agency, institution, or organization, or in an Indian tribe if the law authorizing the program provides for assistance to such entities; and

"(B) the public agency, nonprofit private agency, institution, or organization, or Indian tribe will administer such funds and property to the extent required by the authorizing law;

"(3) the State will adopt and use proper methods of administering each such program, including—

"(A) the enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients responsible for carrying out each program;

"(B) the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation; and

"(C) the adoption of written procedures for the receipt and resolution of complaints alleging violations of law in the administration of such programs;

"(4) the State will cooperate in carrying out any evaluation of each such program conducted by or for the Secretary or other Federal officials;

"(5) the State will use such fiscal control and fund accounting procedures as will ensure proper disbursement of, and accounting for, Federal funds paid to the State under each such program;

"(6) the State will—

"(A) make reports to the Secretary as may be necessary to enable the Secretary to perform the Secretary's duties under each such program; and

"(B) maintain such records, provide such information to the Secretary, and afford access to the records as the Secretary may find necessary to carry out the Secretary's duties; and

"(7) before the plan or application was submitted to the Secretary, the State has afforded a reasonable opportunity for public comment on the plan or application and has considered such comment.

"(b) GEPA PROVISION.—Section 441 of the General Education Provisions Act shall not apply to programs under this Act.

**"SEC. 14304. ADDITIONAL COORDINATION.**

"(a) ADDITIONAL COORDINATION.—In order to explore ways for State educational agencies to reduce administrative burdens and promote the coordination of the education services of this Act with other health and social service programs administered by such agencies, the Secretary is directed to seek agreements with other Federal agencies (including the Departments of Health and Human Services, Justice, Labor and Agriculture) for the purpose of establishing procedures and criteria under which a State educational agency would submit a consolidated State plan or consolidated State application that meets the requirements of the covered programs.

"(b) REPORT.—The Secretary shall report to the relevant committees 6 months after the date of enactment of the Improving America's Schools Act of 1994.

**"SEC. 14305. CONSOLIDATED LOCAL PLANS OR APPLICATIONS.**

"(a) GENERAL AUTHORITY.—A local educational agency receiving funds under more than one covered program may submit plans or applications to the State educational agency under such programs on a consolidated basis.

"(b) REQUIRED CONSOLIDATED PLANS OR APPLICATIONS.—A State educational agency that has submitted and had approved a consolidated State plan or application under section 14302 may require local educational agencies in the State receiving funds under more than one program included in the consolidated State plan or consolidated State application to submit consolidated local plans or applications under such programs.

"(c) COLLABORATION.—A State educational agency shall collaborate with local educational agencies in the State in establishing procedures for the submission of the consolidated State plans or consolidated State applications under this section.

"(d) NECESSARY MATERIALS.—The State educational agency shall require only descriptions, information, assurances, and other material that are absolutely necessary for the consideration of the local educational agency plan or application.

**"SEC. 14306. OTHER GENERAL ASSURANCES.**

"(a) ASSURANCES.—Any applicant other than a State educational agency that submits a plan or application under this Act, whether separately or pursuant to section 14304, shall have on file with the State educational agency a single set of assurances, applicable to each program for which a plan or application is submitted, that provides that—

"(1) each such program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

"(2)(A) the control of funds provided under each such program and title to property acquired with program funds will be in a public agency or in a nonprofit private agency, institution, organization, or Indian tribe, if the law authorizing the program provides for assistance to such entities; and

"(B) the public agency, nonprofit private agency, institution, or organization, or Indian tribe will administer such funds and property to the extent required by the authorizing statutes;

"(3) the applicant will adopt and use proper methods of administering each such program, including—

"(A) the enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients responsible for carrying out each program; and

"(B) the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation;

"(4) the applicant will cooperate in carrying out any evaluation of each such program conducted by or for the State educational agency, the Secretary or other Federal officials;

"(5) the applicant will use such fiscal control and fund accounting procedures as will ensure proper disbursement of, and accounting for, Federal funds paid to such applicant under each such program;

"(6) the applicant will—

"(A) make reports to the State educational agency and the Secretary as may be necessary to enable such agency and the Secretary to perform their duties under each such program; and

"(B) maintain such records, provide such information, and afford access to the records as the State educational agency or the Secretary may find necessary to carry out the State educational agency's or the Secretary's duties; and

"(7) before the application was submitted, the applicant afforded a reasonable opportunity for public comment on the application and has considered such comment.

"(b) GEPA PROVISION.—Section 442 of the General Education Provisions Act does not apply to programs under this Act.

**"SEC. 14307. RELATIONSHIP OF STATE AND LOCAL PLANS TO PLANS UNDER THE GOALS 2000: EDUCATE AMERICA ACT.**

"(a) STATE PLANS.—

"(1) IN GENERAL.—Each State plan submitted under the following programs shall be integrated with each other and the State's improvement plan, if any, either approved or being developed, under title III of the Goals 2000: Educate America Act, the School-to-Work Opportunities Act of 1994, and the Carl D. Perkins Vocational and Applied Technology Education Act:

"(A) Part A of title I (helping disadvantaged children meet high standards).

"(B) Part C of title I (education of migratory children).

"(C) Part D of title I (education of neglected, delinquent, and at-risk youth).

"(D) Title II (professional development).

"(E) Title IV (safe and drug-free schools).

"(F) Title VI (innovative education program strategies).

"(G) Subpart 4 of part A of title IX (Indian education).

"(2) SPECIAL RULE.—Notwithstanding any other provision of this Act, if a requirement relating to a State plan referred to in paragraph (1) is already satisfied by the approved State improvement plan for such State under title III of the Goals 2000: Educate America Act, the State plan referred to in paragraph (1) need not separately address that requirement.

"(3) AMENDMENT.—Any State plan referred to in paragraph (1) may, if necessary, be submitted as an amendment to the State improvement plan for such State under title III of the Goals 2000: Educate America Act.

"(b) LOCAL PLANS.—

"(1) IN GENERAL.—Each local educational agency plan submitted under the following programs shall be integrated with each other and its local improvement plan, if any, either approved or being developed, under title III of the Goals 2000: Educate America Act:

"(A) Part A of title I (helping disadvantaged children meet high standards).

"(B) Title II (professional development).

"(C) Title IV (safe and drug-free schools).

"(D) Subpart 4 of part A of title IX (Indian education).

"(E) Subpart 1 of part A of title VII (bilingual education).

"(F) Title VI (innovative education program strategies).

"(G) Part C of title VII (emergency immigrant education).

"(2) PLAN OF OPERATION.—Each plan of operation included in an application submitted by an eligible entity under part B of title I (Even Start) shall be consistent with, and promote the goals of, the State and local improvement plans, either approved or being developed, under title III of the Goals 2000: Educate America Act or, if those plans are not approved or being developed, with the State and local plans under sections 1111 and 1112.

"(3) SPECIAL RULE.—Notwithstanding any other provision of this Act, if a requirement relating to a local plan referred to in paragraph (1) is already satisfied by the local educational agency's approved local improvement plan under title III of the Goals 2000: Educate America Act, the local plan referred to in paragraph (1) need not separately address that requirement.

"(4) SUBMISSION.—Any local plan referred to in paragraph (1) may, if necessary, be submitted as an amendment to the local educational agency's improvement plan under title III of the Goals 2000: Educate America Act.

**"PART D—WAIVERS**

**"SEC. 14401. WAIVERS OF STATUTORY AND REGULATORY REQUIREMENTS.**

"(a) IN GENERAL.—Except as provided in subsection (c), the Secretary may waive any statutory or regulatory requirement of this Act for a State educational agency, local educational agency, Indian tribe, or school through a local educational agency, that—

"(1) receives funds under a program authorized by this Act; and

"(2) requests a waiver under subsection (b).

"(b) REQUEST FOR WAIVER.—

"(1) IN GENERAL.—A State educational agency, local educational agency, or Indian tribe which desires a waiver shall submit a waiver request to the Secretary that—

"(A) identifies the Federal programs affected by such requested waiver;

"(B) describes which Federal requirements are to be waived and how the waiving of such requirements will—

"(i) increase the quality of instruction for students; or

"(ii) improve the academic performance of students;

"(C) if applicable, describes which similar State and local requirements will be waived and how the waiving of such requirements will assist the local educational agencies, Indian tribes or schools, as appropriate, to achieve the objectives described in clauses (i) and (ii) of subparagraph (B);

"(D) describes specific, measurable educational improvement goals and expected outcomes for all affected students;

"(E) describes the methods to be used to measure progress in meeting such goals and outcomes; and

"(F) describes how schools will continue to provide assistance to the same populations served by programs for which waivers are requested.

"(2) ADDITIONAL INFORMATION.—Such requests—

"(A) may provide for waivers of requirements applicable to State educational agencies, local educational agencies, Indian tribes, and schools; and

"(B) shall be developed and submitted—

"(i) by local educational agencies (on behalf of such agencies and schools) to State educational agencies; and

"(ii) by State educational agencies (on behalf of, and based upon the requests of, local educational agencies) to the Secretary; or

"(iii) by Indian tribes (on behalf of schools operated by such tribes) to the Secretary.

"(3) GENERAL REQUIREMENTS.—(A) In the case of a waiver request submitted by a State educational agency acting in its own behalf, the State educational agency shall—

"(i) provide all interested local educational agencies in the State with notice and a reasonable opportunity to comment on the request;

"(ii) submit the comments to the Secretary; and

"(iii) provide notice and information to the public regarding the waiver request in the manner that the applying agency customarily provides similar notices and information to the public.

"(B) In the case of a waiver request submitted by a local educational agency that receives funds under this Act—

"(i) such request shall be reviewed by the State educational agency and be accompanied by the comments, if any, of such State educational agency; and

"(ii) notice and information regarding the waiver request shall be provided to the public by the agency requesting the waiver in the manner that such agency customarily provides similar notices and information to the public.

"(c) RESTRICTIONS.—The Secretary shall not waive under this section any statutory or regulatory requirements relating to—

"(1) the allocation or distribution of funds to States, local educational agencies, or other recipients of funds under this Act;

"(2) maintenance of effort;

"(3) comparability of services;

"(4) use of Federal funds to supplement, not supplant, non-Federal funds;

"(5) equitable participation of private school students and teachers;

"(6) parental participation and involvement;

"(7) applicable civil rights requirements;

"(8) the requirement for a charter school under part C of title X; or

"(9) the prohibitions regarding—

"(A) State aid in section 14502; or

"(B) use of funds for religious worship or instruction in section 14507.

"(d) DURATION AND EXTENSION OF WAIVER.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the duration of a waiver approved by the Secretary under this section may be for a period not to exceed three years.

"(2) EXTENSION.—The Secretary may extend the period described in paragraph (1) if the Secretary determines that—

"(A) the waiver has been effective in enabling the State or affected recipients to carry out the activities for which the waiver was requested and the waiver has contributed to improved student performance; and

"(B) such extension is in the public interest.

"(e) REPORTS.—

"(1) LOCAL WAIVER.—A local educational agency that receives a waiver under this section shall at the end of the second year for which a waiver is received under this section, and each subsequent year, submit a report to the State educational agency that—

"(A) describes the uses of such waiver by such agency or by schools;

"(B) describes how schools continued to provide assistance to the same populations served by the programs for which waivers are requested; and

"(C) evaluates the progress of such agency and of schools in improving the quality of instruction or the academic performance of students.

"(2) STATE WAIVER.—A State educational agency that receives reports required under

paragraph (1) shall annually submit a report to the Secretary that is based on such reports and contains such information as the Secretary may require.

"(3) INDIAN TRIBE WAIVER.—An Indian tribe that receives a waiver under this section shall annually submit a report to the Secretary that—

"(A) describes the uses of such waiver by schools operated by such tribe; and

"(B) evaluates the progress of such schools in improving the quality of instruction or the academic performance of students.

"(4) REPORT TO CONGRESS.—Beginning in fiscal year 1997 and each subsequent year, the Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report—

"(A) summarizing the uses of waivers by State educational agencies, local educational agencies, Indian tribes, and schools; and

"(B) describing whether such waivers—

"(i) increased the quality of instruction to students; or

"(ii) improved the academic performance of students.

"(f) TERMINATION OF WAIVERS.—The Secretary shall terminate a waiver under this section if the Secretary determines that the performance of the State or other recipient affected by the waiver has been inadequate to justify a continuation of the waiver or if the waiver is no longer necessary to achieve its original purposes.

"(g) PUBLICATION.—A notice of the Secretary's decision to grant each waiver under subsection (a) shall be published in the Federal Register and the Secretary shall provide for the dissemination of such notice to State educational agencies, interested parties, including educators, parents, students, advocacy and civil rights organizations, and the public.

#### "PART E—UNIFORM PROVISIONS

##### "SEC. 14501. MAINTENANCE OF EFFORT.

"(a) IN GENERAL.—A local educational agency may receive funds under a covered program for any fiscal year only if the State educational agency finds that either the combined fiscal effort per student or the aggregate expenditures of such agency and the State with respect to the provision of free public education by such agency for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

"(b) REDUCTION IN CASE OF FAILURE TO MEET.—

"(1) IN GENERAL.—The State educational agency shall reduce the amount of the allocation of funds under a covered program in any fiscal year in the exact proportion to which a local educational agency fails to meet the requirement of subsection (a) by falling below 90 percent of both the combined fiscal effort per student and aggregate expenditures (using the measure most favorable to such local agency).

"(2) SPECIAL RULE.—No such lesser amount shall be used for computing the effort required under subsection (a) for subsequent years.

"(c) WAIVER.—The Secretary may waive the requirements of this section if the Secretary determines that such a waiver would be equitable due to—

"(1) exceptional or uncontrollable circumstances such as a natural disaster; or

"(2) a precipitous decline in the financial resources of the local educational agency.

##### "SEC. 14502. PROHIBITION REGARDING STATE AID.

"A State shall not take into consideration payments under this Act (other than under title VIII) in determining the eligibility of any local educational agency in such State for State aid, or the amount of State aid, with respect to free public education of children.

##### "SEC. 14503. PARTICIPATION BY PRIVATE SCHOOL CHILDREN AND TEACHERS.

###### "(a) PRIVATE SCHOOL PARTICIPATION.—

"(1) IN GENERAL.—Except as otherwise provided in this Act, to the extent consistent with the number of eligible children in a State educational agency, local educational agency, or educational service agency or consortium of such agencies receiving financial assistance under a program specified in subsection (b), who are enrolled in private elementary and secondary schools in such agency or consortium, such agency or consortium shall, after timely and meaningful consultation with appropriate private school officials, provide such children and their teachers or other educational personnel, on an equitable basis, special educational services or other benefits under such program.

"(2) SECULAR, NEUTRAL, AND NONIDEOLOGICAL SERVICES OR BENEFITS.—Educational services or other benefits, including materials and equipment, provided under this section, shall be secular, neutral, and nonideological.

"(3) SPECIAL RULE.—Educational services and other benefits provided under this section for such private school children, teachers, and other educational personnel shall be equitable in comparison to services and other benefits for public school children, teachers, and other educational personnel participating in such program.

"(4) EXPENDITURES.—Expenditures for educational services and other benefits provided under this section to eligible private school children, their teachers, and other educational personnel serving such children shall be equal, taking into account the number and educational needs of the children to be served, to the expenditures for participating public school children.

"(5) PROVISION OF SERVICES.—Such agency or consortium described in subsection (a)(1) may provide such services directly or through contracts with public and private agencies, organizations, and institutions.

###### "(b) APPLICABILITY.—

"(1) IN GENERAL.—This section applies to programs under—

"(A) part C of title I (migrant education);

"(B) title II (other than section 2103 and part C of such title?);

"(C) title VII;

"(D) title III (other than part B of such title) (Star Schools); and

"(E) part A of title IV (other than section 4114).

"(2) DEFINITION.—For the purposes of this section, the term 'eligible children' means children eligible for services under a program described in paragraph (1).

###### "(c) CONSULTATION.—

"(1) IN GENERAL.—To ensure timely and meaningful consultation, a State educational agency, local educational agency, educational service agency or consortium of such agencies shall consult with appropriate private school officials during the design and development of the programs under this Act, on issues such as—

"(A) how the children's needs will be identified;

"(B) what services will be offered;

"(C) how and where the services will be provided; and

"(D) how the services will be assessed.

"(2) TIMING.—Such consultation shall occur before the agency or consortium makes any decision that affects the opportunities of eligible private school children, teachers, and other educational personnel to participate in programs under this Act.

"(3) DISCUSSION REQUIRED.—Such consultation shall include a discussion of service delivery mechanisms that the agency or consortium could use to provide equitable services to eligible private school children, teachers, administrators, and other staff.

###### "(d) PUBLIC CONTROL OF FUNDS.—

"(1) IN GENERAL.—The control of funds used to provide services under this section, and title to materials, equipment, and property purchased with such funds, shall be in a public agency for the uses and purposes provided in this Act, and a public agency shall administer such funds and property.

"(2) PROVISION OF SERVICES.—(A) The provision of services under this section shall be provided—

"(i) by employees of a public agency; or

"(ii) through contract by such public agency with an individual, association, agency, or organization.

"(B) In the provision of such services, such employee, person, association, agency, or organization shall be independent of such private school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency.

"(C) Funds used to provide services under this section shall not be commingled with non-Federal funds.

##### "SEC. 14504. STANDARDS FOR BY-PASS.

"If, by reason of any provision of law, a State educational agency, local educational agency, educational service agency or consortium of such agencies is prohibited from providing for the participation in programs of children enrolled in, or teachers or other educational personnel from, private elementary and secondary schools, on an equitable basis, or if the Secretary determines that such agency or consortium has substantially failed or is unwilling to provide for such participation, as required by section 14503, the Secretary shall—

"(1) waive the requirements of that section for such agency or consortium; and

"(2) arrange for the provision of equitable services to such children, teachers, or other educational personnel through arrangements that shall be subject to the requirements of this section and of sections 14503, 14505, and 14506.

##### "SEC. 14505. COMPLAINT PROCESS FOR PARTICIPATION OF PRIVATE SCHOOL CHILDREN.

"(a) PROCEDURES FOR COMPLAINTS.—The Secretary shall develop and implement written procedures for receiving, investigating, and resolving complaints from parents, teachers, or other individuals and organizations concerning violations of section 14503 by a State educational agency, local educational agency, educational service agency, or consortium of such agencies. Such individual or organization shall submit such complaint to the State educational agency for a written resolution by the State educational agency within a reasonable period of time.

"(b) APPEALS TO THE SECRETARY.—Such resolution may be appealed by an interested party to the Secretary not later than 30 days after the State educational agency resolves the complaint or fails to resolve the complaint within a reasonable period of time. Such appeal shall be accompanied by a copy of the State educational agency's resolution, and a complete statement of the reasons supporting the appeal. The Secretary shall investigate and resolve each such appeal not later than 120 days after receipt of the appeal.

##### "SEC. 14506. BY-PASS DETERMINATION PROCESS.

###### "(a) REVIEW.—

"(1) IN GENERAL.—(A) The Secretary shall not take any final action under section 14504 until the State educational agency, local educational agency, educational service agency, or consortium of such agencies affected by such action has had an opportunity, for not less than 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary to show cause why that action should not be taken.

"(B) Pending final resolution of any investigation or complaint that could result in a determination under this section, the Secretary

may withhold from the allocation of the affected State or local educational agency the amount estimated by the Secretary to be necessary to pay the cost of those services.

"(2) **PETITION FOR REVIEW.**—(A) If such affected agency or consortium is dissatisfied with the Secretary's final action after a proceeding under paragraph (1), such agency or consortium may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action.

"(B) A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary.

"(C) The Secretary upon receipt of the copy of the petition shall file in the court the record of the proceedings on which the Secretary based this action, as provided in section 2112 of title 28, United States Code.

"(3) **FINDINGS OF FACT.**—(A) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence and the Secretary may then make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings.

"(B) Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(4) **JURISDICTION.**—(A) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set such action aside, in whole or in part.

"(B) The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(b) **DETERMINATION.**—Any determination by the Secretary under this section shall continue in effect until the Secretary determines, in consultation with such agency or consortium and representatives of the affected private school children, teachers, or other educational personnel that there will no longer be any failure or inability on the part of such agency or consortium to meet the applicable requirements of section 14503 or any other provision of this Act.

"(c) **PAYMENT FROM STATE ALLOTMENT.**—When the Secretary arranges for services pursuant to this section, the Secretary shall, after consultation with the appropriate public and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allocation or allocations under this Act.

"(d) **PRIOR DETERMINATION.**—Any by-pass determination by the Secretary under this Act as in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994 shall remain in effect to the extent the Secretary determines that such determination is consistent with the purpose of this section.

**"SEC. 14507. PROHIBITION AGAINST FUNDS FOR RELIGIOUS WORSHIP OR INSTRUCTION.**

"Nothing contained in this Act shall be construed to authorize the making of any payment under this Act for religious worship or instruction.

**"SEC. 14508. APPLICABILITY TO HOME SCHOOLS.**

"Nothing in this Act shall be construed to affect home schools.

**"SEC. 14509. GENERAL PROVISION REGARDING NONRECIPIENT NONPUBLIC SCHOOLS.**

"Nothing in this Act shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of any private, religious, or home school, whether or not a home school is treated as a private school or home school under

State law. This section shall not be construed to bar private, religious, or home schools from participation in programs or services under this Act.

**"SEC. 14510. SCHOOL PRAYER.**

"Any State or local educational agency that is adjudged by a Federal court of competent jurisdiction to have willfully violated a Federal court order mandating that such local educational agency remedy a violation of the constitutional right of any student with respect to prayer in public schools, in addition to any other judicial remedies, shall be ineligible to receive Federal funds under this Act until such time as the local educational agency complies with such order. Funds that are withheld under this section shall not be reimbursed for the period during which the local educational agency was in willful noncompliance.

**"SEC. 14511. GENERAL PROHIBITIONS.**

"(a) **PROHIBITION.**—None of the funds authorized under this Act shall be used—

"(1) to develop or distribute materials, or operate programs or courses of instruction directed at youth that are designed to promote or encourage, sexual activity, whether homosexual or heterosexual;

"(2) to distribute or to aid in the distribution by any organization of legally obscene materials to minors on school grounds;

"(3) to provide sex education or HIV prevention education in schools unless such instruction is age appropriate and includes the health benefits of abstinence; or

"(4) to operate a program of condom distribution in schools.

"(b) **LOCAL CONTROL.**—Nothing in this section shall be construed to—

"(1) authorize an officer or employee of the Federal Government to mandate, direct, review, or control a State, local educational agency, or schools' instructional content, curriculum, and related activities;

"(2) limit the application of the General Education Provisions Act;

"(3) require the distribution of scientifically or medically false or inaccurate materials or to prohibit the distribution of scientifically or medically true or accurate materials; or

"(4) create any legally enforceable right.

**"SEC. 14512. PROHIBITION ON FEDERAL MANDATES, DIRECTION, AND CONTROL.**

"Nothing in this Act shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's curriculum, program of instruction, or allocation of State or local resources, or mandate a State or any subdivision thereof to spend any funds or incur any costs not paid for under this Act.

**"SEC. 14513. REPORT.**

"The Secretary shall report to the Congress not later than 180 days of the date of enactment of the Improving America's Schools Act of 1994 regarding how the Secretary shall ensure that audits conducted by Department employees of activities assisted under this Act comply with changes to this Act made by the Improving America's Schools Act of 1994, particularly with respect to permitting children with similar educational needs to be served in the same educational settings, where appropriate.

**"SEC. 14514. REQUIRED PARTICIPATION PROHIBITED.**

"Notwithstanding any other provision of law, no State shall be required to participate in any program under the Goals 2000: Educate America Act, or to have content standards or student performance standards approved or certified under such Act, in order to receive assistance under this Act.

**"PART F—GUN POSSESSION**

**"SEC. 14601. GUN-FREE REQUIREMENTS.**

"(a) **SHORT TITLE.**—This section may be cited as the 'Gun-Free Schools Act of 1994'.

**"(b) REQUIREMENTS.—**

"(1) **IN GENERAL.**—Except as provided in paragraph (3), each State receiving Federal funds under this Act shall have in effect a State law requiring local educational agencies to expel from school for a period of not less than one year a student who is determined to have brought a weapon to a school under the jurisdiction of local educational agencies in that State, except that such State law shall allow the chief administering officer of such local educational agency to modify such expulsion requirement for a student on a case-by-case basis.

"(2) **CONSTRUCTION.**—Nothing in this title shall be construed to prevent a State from allowing a local educational agency that has expelled a student from such a student's regular school setting from providing educational services to such student in an alternative setting.

"(3) **SPECIAL RULE.**—(A) Any State that has a law in effect prior to the date of enactment of the Improving America's Schools Act of 1994 which is in conflict with the not less than one year expulsion requirement described in paragraph (1) shall have the period of time described in subparagraph (B) to comply with such requirement.

"(B) The period of time shall be the period beginning on the date of enactment of the Improving America's Schools Act and ending one year after such date.

"(4) **DEFINITION.**—For the purpose of this section, the term 'weapon' means a firearm as such term is defined in section 921 of title 18, United States Code.

"(c) **SPECIAL RULE.**—The provisions of this section shall be construed in a manner consistent with the Individuals with Disabilities Education Act.

"(d) **REPORT TO STATE.**—Each local educational agency requesting assistance from the State educational agency that is to be provided from funds made available to the State under this Act shall provide to the State, in the application requesting such assistance—

"(1) an assurance that such local educational agency is in compliance with the State law required by subsection (b); and

"(2) a description of the circumstances surrounding any expulsions imposed under the State law required by subsection (b), including—

"(A) the name of the school concerned;

"(B) the number of students expelled from such school; and

"(C) the type of weapons concerned.

"(e) **REPORTING.**—Each State shall report the information described in subsection (c) to the Secretary on an annual basis.

"(f) **REPORT TO CONGRESS.**—Two years after the date of enactment of the Improving America's Schools Act of 1994, the Secretary shall report to Congress if any State is not in compliance with the requirements of this title.

**"SEC. 14602. POLICY REGARDING CRIMINAL JUSTICE SYSTEM REFERRAL.**

"(a) **IN GENERAL.**—No funds shall be made available under this Act to any local educational agency unless such agency has a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a firearm or weapon to a school served by such agency.

"(b) **DEFINITIONS.**—For the purpose of this section, the terms 'firearm' and 'school' have the same meaning given to such terms by section 921(a) of title 18, United States Code.

**"SEC. 14603. DATA AND POLICY DISSEMINATION UNDER IDEA.**

"The Secretary shall—

"(1) widely disseminate the policy of the Department in effect on the date of enactment of the Improving America's Schools Act of 1994 with respect to disciplining children with disabilities;

"(2) collect data on the incidence of children with disabilities (as such term is defined in section 602(a)(1) of the Individuals With Disabilities Education Act) engaging in life threatening behavior or bringing weapons to schools; and

"(3) submit a report to Congress not later than January 31, 1995, analyzing the strengths and problems with the current approaches regarding disciplining children with disabilities.

#### "PART G—EVALUATIONS

##### "SEC. 14701. EVALUATIONS.

###### "(a) EVALUATIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary is authorized to reserve not more than 0.50 percent of the amount appropriated to carry out each program authorized under this Act—

"(A) to carry out comprehensive evaluations of categorical programs and demonstration projects, and studies of program effectiveness, under this Act, and the administrative impact of such programs on schools and local educational agencies in accordance with subsection (b);

"(B) to evaluate the aggregate short- and long-term effects and cost efficiencies across Federal programs under this Act and related Federal preschool, elementary and secondary programs under other Federal law; and

"(C) to strengthen the usefulness of grant recipient evaluations for continuous program progress through improving the quality, timeliness, efficiency, and utilization of program information on program performance.

"(2) SPECIAL RULE.—(A) Paragraph (1) shall not apply to any program under title I.

"(B) If funds are made available under any program assisted under this Act (other than a program under title I) for evaluation activities, then the Secretary shall reserve no additional funds pursuant to the authority in subsection (a)(1) to evaluate such program, but shall coordinate the evaluation of such program with the national evaluation described in subsection (b).

###### "(b) NATIONAL EVALUATIONS.—

"(1) IN GENERAL.—The Secretary shall use the funds made available under subsection (a) to carry out—

"(A) independent studies of categorical and demonstration programs under this Act and the administrative impact of such programs on schools and local educational agencies, that are coordinated with research supported through the Office of Educational Research and Improvement, using rigorous methodological designs and techniques, including longitudinal designs, control groups, and random assignment, as appropriate, to determine—

"(i) the success of such programs in meeting the measurable goals and objectives, through appropriate targeting, quality services, and efficient administration, and in contributing to achieving the National Education Goals, with a priority on assessing program impact on student performance;

"(ii) the short- and long-term effects of program participation on program participants, as appropriate;

"(iii) the cost and efficiency of such programs;

"(iv) to the extent feasible, the cost of serving all students eligible to be served under such programs;

"(v) specific intervention strategies and implementation of such strategies that, based on theory, research and evaluation, offer the promise of improved achievement of program objectives;

"(vi) promising means of identifying and disseminating effective management and educational practices;

"(vii) the effect of such programs on school and local educational agencies' administrative responsibilities and structure, including the use of local and State resources, with particular attention to schools and agencies serving a high concentration of disadvantaged students; and

"(viii) the effect of Federal categorical programs at the elementary and secondary levels on the proliferation of State categorical education aid programs and regulations, including an evaluation of the State regulations that are developed in response to Federal education laws;

"(B) in collaboration with the national assessment conducted pursuant to section 1601, a comprehensive evaluation of how the Federal Government has assisted the States to reform their educational systems through the various education laws enacted during the 103d Congress, which evaluation shall—

"(i) encompass the changes made in Federal programs pursuant to the Improving America's Schools Act of 1994 as well as in any other law enacted during the 103d Congress that amended a Federal program assisting preschool, elementary, or secondary education;

"(ii) encompass new initiatives such as initiatives under the Goals 2000: Educate America Act, and the School-to-Work Opportunities Act of 1994, and be coordinated with evaluations of such Acts;

"(iii) include a comprehensive review of the programs developed under the Acts described in clauses (i) and (ii) to determine such programs' overall effect on—

"(I) the readiness of children for schooling;

"(II) the improvement in educational attainment of students in elementary and secondary education; and

"(III) the improvement in skills needed by students to obtain employment or pursue further education upon completion of secondary school or further education;

"(iv) include a comprehensive review of the programs under the Acts described in clauses (i) and (ii) to determine such programs' overall effect—

"(I) on school reform efforts undertaken by States;

"(II) on efforts by States to adopt educational standards to improve schooling for all children, to align their curricula, teacher training, and assessments with such standards, and to bring flexibility to the rules governing how education is to be provided; and

"(III) on student populations that have been the traditional beneficiaries of Federal assistance in order to determine whether such population's educational attainment has been improved as a result of such programs;

"(v) evaluate how the National Assessment Governing Board, the Advisory Council on Education Statistics, the National Education Goals Panel, and the National Education Statistics and Improvement Council (and any other Federal board established to analyze, address, or approve education standards and assessments) coordinate, interact, or duplicate efforts to assist the States in reforming the educational systems of States; and

"(vi) include a review of the programs under the Acts described in clauses (i) and (ii) in such detail as the Secretary deems appropriate, and may involve cooperation with other Federal departments and agencies in order to incorporate evaluations and recommendations of such departments and agencies; and

"(C) a study of the waivers granted under section 14401, which study shall include—

"(i) data on the total number of waiver requests that were granted and the total number of such requests that were denied, disaggregated by the statutory or regulatory requirement for which the waivers were requested; and

"(ii) an analysis of the effect of waivers on categorical program requirements and other flexibility provisions in this Act, the School-to-Work Opportunities Act of 1994, and the Goals 2000: Educate America Act, on improvement in educational achievement of participating students and on school and local educational agen-

cy administrative responsibilities, structure, and resources based on an appropriate sample of State educational agencies, local educational agencies, schools, and tribes receiving waivers.

"(D) a study of the waivers provided under section 1114 to support schoolwide programs which shall include—

"(i) the extent to which schoolwide programs are meeting the intent and purposes of any program for which provisions were waived; and

"(ii) the extent to which the needs of all students are being served by such programs particularly students who would be eligible for assistance under any provisions waived.

"(2) INDEPENDENT PANEL.—The Secretary shall appoint an independent panel to review the plan for the evaluation described in paragraph (1), to advise the Secretary on such evaluation's progress, and to comment, if the panel so wishes, on the final report described in paragraph (3).

"(3) REPORT.—The Secretary shall submit a final report on the evaluation described in this subsection by January 1, 1998, to the Committee on Education and Labor of the House of Representatives and to the Committee on Labor and Human Resources of the Senate.

"(c) RECIPIENT EVALUATION AND QUALITY ASSURANCE IMPROVEMENT.—The Secretary is authorized to provide guidance, technical assistance, and model programs to recipients of assistance under this Act to strengthen information for quality assurance and performance information feedback at State and local levels. Such guidance and assistance shall promote the development, measurement and reporting of valid, reliable, timely and consistent performance indicators within a program in order to promote continuous program improvement. Nothing in this subsection shall be construed to establish a national data system.

#### "PART H—SENSE OF THE CONGRESS

##### "SEC. 14801. SENSE OF CONGRESS TO INCREASE THE TOTAL SHARE OF FEDERAL SPENDING ON EDUCATION.

###### "(a) FINDINGS.—The Congress finds that—

"(1) in order to increase our Nation's standard of living and to increase the number of good jobs, the United States must increase its productivity and ability to compete in the international marketplace by improving the educational level of our workforce;

"(2) although efforts are being made to establish higher educational standards and goals, there is a substantial shortage of resources to meet such standards and goals;

"(3) States and local communities are finding it increasingly difficult to meet ever higher educational standards and goals, and States will not be able to fund needed changes without Federal help to reach such standards and goals;

"(4) the Federal Government has established many educational programs but failed to provide adequate funding for such programs, for example one such program provides education to our Nation's disabled students and was established with a promise of 40 percent Federal funding but currently receives only eight percent Federal funding;

"(5) the annual shortfall in Federal education programs is approximately half of the promised funding;

"(6) many needed educational improvements will not need Federal funds, however, other suggested changes such as lengthened school years, better pay, after-school activities, mentoring for students at risk, programs for gifted students, and replacing substandard buildings, will require substantial Federal assistance; and

"(7) the Federal contribution to education is less than two percent of the total Federal budget, and in order to make education a national priority, the total percentage of Federal educational funding should be increased by one

percent each year over the next eight years to reach 10 percent of the total Federal budget.

"(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that the total share of the Federal spending on education should increase by at least one percent each year until such share reaches 10 percent of the total Federal budget.

**"SEC. 14802. SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.**

"(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this Act, it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

"(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the head of each Federal agency shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress."

**TITLE II—AMENDMENTS TO THE GENERAL EDUCATION PROVISIONS ACT**

**PART A—APPLICABILITY OF THE GENERAL EDUCATION PROVISIONS ACT**

**SEC. 211. TITLE; APPLICABILITY; DEFINITIONS.**

Section 400 of the General Education Provisions Act (20 U.S.C. 1221 et seq.) (hereafter in this title (other than part F) referred to as the "Act") is amended to read as follows:

**"SHORT TITLE; APPLICABILITY; DEFINITIONS**

"SEC. 400. (a) This title may be cited as the 'General Education Provisions Act'.

"(b)(1) Except as otherwise provided, this title applies to each applicable program of the Department of Education.

"(2) Except as otherwise provided, this title does not apply to any contract made by the Department of Education.

"(c) As used in this title, the following terms have the following meanings:

"(1) The term 'applicable program' means any program for which the Secretary or the Department has administrative responsibility as provided by law or by delegation of authority pursuant to law. The term includes each program for which the Secretary or the Department has administrative responsibility under the Department of Education Organization Act or under Federal law effective after the effective date of that Act.

"(2) The term 'applicable statute' means—

"(A) the Act or the title, part, section, or any other subdivision of an Act, as the case may be, that authorizes the appropriation for an applicable program;

"(B) this title; and

"(C) any other statute that by its terms expressly controls the administration of an applicable program.

"(3) The term 'Department' means the Department of Education.

"(4) The term 'Secretary' means the Secretary of Education.

"(d) Nothing in this title shall be construed to affect the applicability of title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, title V of the Rehabilitation Act of 1973, the Age Discrimination Act, or other statutes prohibiting discrimination, to any applicable program."

**SEC. 212. REPEAL AND REDESIGNATION.**

(a) REPEALS.—

(1) SECTIONS.—Sections 400A, 401, 402, 403, 406, 406A, 406B, 406C, 407, 413, 416, 419, 421, 423, 424, 426A, and 429 of the Act are repealed.

(2) PART.—Part D of the Act is repealed.

(b) REDESIGNATIONS.—

(1) SECTIONS.—Sections 408, 409, 411, 412, 414, 415, 417, 420, 421A, 422, 425, 426, 427, 428, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, and 440

of the Act are redesignated as sections 410, 411, 420, 421, 422, 423, 425, 426, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, and 446 of the Act, respectively.

(2) PART.—Part E of the Act is redesignated as part D of the Act.

(3) CROSS REFERENCES.—(A) Paragraph (6) of section 441(b) (as redesignated by paragraph (1)) (20 U.S.C. 1232d(b)(6)) is amended by striking "437" and inserting "443".

(B) Paragraph (4) of section 442(b) of the Act (as redesignated by paragraph (1)) (20 U.S.C. 1232e(b)(4)) is amended by striking "437" and inserting "443".

(C) Subsection (a) of section 446 of the Act (as redesignated by paragraph (1)) (20 U.S.C. 1232i(a)) is amended by striking "438(b)(1)(D)" and inserting "444(b)(1)(D)".

(D) Subsection (a) of section 458 of the Act (20 U.S.C. 1234g(a)) is amended by striking "435(a)" and inserting "441(a)".

**PART B—THE DEPARTMENT OF EDUCATION**

**SEC. 221. NEW HEADING FOR PART A.**

The heading for part A of the Act is amended to read as follows:

"PART A—FUNCTIONS OF THE DEPARTMENT OF EDUCATION".

**SEC. 222. GENERAL AUTHORITY OF THE SECRETARY.**

Section 410 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1221e-3) is amended to read as follows:

**"GENERAL AUTHORITY OF THE SECRETARY**

"SEC. 410. The Secretary, in order to carry out functions otherwise vested in the Secretary by law or by delegation of authority pursuant to law, and subject to limitations as may be otherwise imposed by law, is authorized to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of operation of, and governing the applicable programs administered by, the Department."

**PART C—APPROPRIATIONS AND EVALUATIONS**

**SEC. 231. FORWARD FUNDING.**

Section 420 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1223) is amended to read as follows:

**"FORWARD FUNDING**

"SEC. 420. (a) To the end of affording the responsible Federal, State, and local officers adequate notice of available Federal financial assistance for carrying out ongoing education activities and projects, appropriations for grants, contracts, or other payments under any applicable program are authorized to be included in the appropriations Act for the fiscal year preceding the fiscal year during which such activities and projects shall be carried out.

"(b) In order to effect a transition to the timing of appropriation action authorized by subsection (a), the application of this section may result in the enactment, in a fiscal year, of separate appropriations for an applicable program (whether in the same appropriations Act or otherwise) for two consecutive fiscal years."

**SEC. 232. AVAILABILITY OF APPROPRIATIONS.**

(a) AMENDMENT TO HEADING.—The heading for section 421 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1225) is amended to read as follows:

"AVAILABILITY OF APPROPRIATIONS ON ACADEMIC OR SCHOOL-YEAR BASIS; ADDITIONAL PERIOD FOR OBLIGATION OF FUNDS".

(b) AMENDMENT TO TEXT.—Section 421 of the Act (20 U.S.C. 1225) is further amended—

(1) in subsection (a)—

(A) by striking "to educational agencies or institutions";

(B) by striking "expenditure" and inserting "obligation"; and

(C) by striking "agency or institution concerned" and inserting "recipient";

(2) in subsection (b), by striking "(b) Notwithstanding" and inserting "(b)(1) Notwithstanding"; and

(3) in subsection (c), by striking "section 3679(d)(2) of the Revised Statutes" and inserting "section 1341(a) of title 31, United States Code".

**SEC. 233. CONTINGENT EXTENSION OF PROGRAMS.**

Section 422 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1226a) is amended to read as follows:

**"CONTINGENT EXTENSION OF PROGRAMS**

"SEC. 422. (a) The authorization of appropriations for, or duration of, an applicable program shall be automatically extended for one additional fiscal year unless Congress, in the regular session that ends prior to the beginning of the terminal fiscal year of such authorization or duration, has passed legislation that becomes law and extends or repeals the authorization or duration of such program.

"(b) The amount authorized to be appropriated for the period of automatic extension under subsection (a) of an applicable program shall be the amount authorized to be appropriated for such program for the terminal fiscal year of the applicable program.

"(c) If the Secretary is required, in the terminal fiscal year of an applicable program, to carry out certain acts or make certain determinations that are necessary for the continuation of such program, such acts or determinations shall be required to be carried out or made during the period of automatic extension under subsection (a).

"(d) This section shall not apply to the authorization of appropriations for a commission, council, or committee which is required by an applicable statute to terminate on a date certain."

**SEC. 234. STATE REPORTS.**

Subpart 2 of part B of the Act (20 U.S.C. 1226b et seq.) is amended by inserting before section 425 (as redesignated by section 212(b)(1)) the following new section:

**"RESPONSIBILITY OF STATES TO FURNISH INFORMATION**

"SEC. 424. (a) Each State educational agency shall submit to the Secretary a report on or before March 15 of every second year. Each such report shall include—

"(1) information with respect to the uses of Federal funds in such State in the two preceding fiscal years under any applicable program under the jurisdiction of the State educational agency; and

"(2) information with respect to the uses of Federal funds in such State in the two preceding fiscal years under any Federal program administered by the State that provided grants or contracts to a local educational agency in the State.

"(b) Each report submitted under subsection (a) shall—

"(1) list, with respect to each program for which information is provided, all grants made to and contracts entered into with local educational agencies and other public and private agencies and institutions within the State during each fiscal year concerned;

"(2) analyze the information included in the report by local educational agency and by program;

"(3) include the total amount of funds available to the State under each such program for each fiscal year concerned; and

"(4) be made readily available by the State to local educational agencies and institutions within the State and to the public.

"(c) If the Secretary does not receive a report by the date required under subsection (a), or receives an incomplete report, the Secretary, not

later than 30 days after such report is required to be submitted, shall take all reasonable measures to obtain the delinquent or incomplete information from the State educational agency.

"(d) When the Secretary receives a report required under subsection (a), the Secretary shall provide such information to the National Center for Education Statistics, and shall make such information available, at a reasonable cost, to any individual who requests such information.

"(e) The Secretary shall consult with the Speaker and Minority Leader of the House of Representatives and the Majority and Minority Leaders of the Senate regarding the costs and feasibility of making the information described in subsection (a) available as part of a telecommunications network that is readily accessible to every member of Congress and other interested parties.

"(f) On or before August 15 of each year in which reports are submitted under subsection (a), the Secretary shall submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate. Such report shall include—

"(1) an analysis of the content and data quality of such reports;

"(2) a compilation of statistical data derived from such reports; and

"(3) information obtained by the Secretary with respect to—

"(A) direct grants made to local educational agencies by the Federal Government; and

"(B) contracts entered into between such agencies and the Federal Government."

#### SEC. 235. BIENNIAL EVALUATION REPORT.

Section 425 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1226c) is amended to read as follows:

##### "BIENNIAL EVALUATION REPORT

"SEC. 425. Not later than March 31, 1995, and every two years after such date, the Secretary shall transmit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate an evaluation report on the effectiveness of applicable programs in achieving such programs' legislated intent and purposes during the two preceding fiscal years. Such report shall—

"(1) contain program profiles that include legislative citations, multiyear funding histories, and legislated purposes;

"(2) contain recent information on the progress being made toward the achievement of program objectives, including listings of program performance indicators, data from performance measurement based on the indicators, and information on the costs and benefits of the applicable programs being evaluated;

"(3) address significant program activities, such as initiatives for program improvement, regulations, and program monitoring and evaluation;

"(4) list the principal analyses and studies supporting the major conclusions in such report;

"(5) be prepared in concise summary form with necessary detailed data and appendices, including available data to indicate the effectiveness of the programs and projects by the race, sex, disability and age of beneficiaries of such programs and projects; and

"(6) include the results of the program evaluations conducted in accordance with section 14701 of the Elementary and Secondary Education Act of 1965."

#### SEC. 236. EQUITY FOR STUDENTS, TEACHERS, AND OTHER PROGRAM BENEFICIARIES.

Subpart 2 of part B of the Act (20 U.S.C. 1226b et seq.) is further amended by inserting after section 426 (as redesignated by section 212(b)(1)) the following new section:

##### "EQUITY FOR STUDENTS, TEACHERS, AND OTHER PROGRAM BENEFICIARIES

"SEC. 427. (a) The purpose of this section is to assist the Department in implementing the Department's mission to ensure equal access to education and to promote educational excellence throughout the Nation, by—

"(1) ensuring equal opportunities to participate for all eligible students, teachers, and other program beneficiaries in any project or activity carried out under an applicable program; and

"(2) promoting the ability of such students, teachers, and beneficiaries to meet high standards.

"(b) The Secretary shall require each applicant for assistance under an applicable program (other than an individual) to develop and describe in such applicant's application the steps such applicant proposes to take to ensure equitable access to, and equitable participation in, the project or activity to be conducted with such assistance, by addressing the special needs of students, teachers, and other program beneficiaries in order to overcome barriers to equitable participation, including barriers based on gender, race, color, national origin, disability, and age.

"(c) The Secretary may establish criteria and provide technical assistance for meeting the requirements of this section.

"(d) Nothing in this section shall be construed to alter in any way the rights or responsibilities established under the laws cited in section 400(d) of this Act."

#### SEC. 237. COORDINATION.

Subpart 2 of part B of the Act (20 U.S.C. 1226b et seq.) is further amended by adding at the end the following new section:

##### "COORDINATION

"SEC. 428. The National Assessment Governing Board, the Advisory Council on Education Statistics, the National Education Goals Panel, the National Education Standards and Improvement Council, and any other board established to analyze, address, or approve education content or student performance standards and assessments shall coordinate and interact with one another in order to ensure that each such entity does not duplicate activities to assist the States in reforming their educational systems."

#### SEC. 238. DISCLOSURE REQUIREMENTS.

Subpart 2 of part B of the Act (20 U.S.C. 1226b) is further amended by inserting after section 428 (as added by section 237) the following new section:

##### "DISCLOSURE REQUIREMENTS

"SEC. 429. (a) IN GENERAL.—Each educational organization, prior to enrolling a minor and prior to accepting funds for the cost of a minor's participation in an educational program operated by such organization, shall disclose the following information in written form to the minor or the minor's parent.

"(1) METHOD OF SOLICITATION AND SELECTION.—The method of solicitation and selection of participants in the educational program, including—

"(A) the origin of any mailing list used for such solicitation and selection;

"(B) any recruitment through a local school official, teacher, or school personnel, including any compensation or other benefit offered to such official, teacher, or personnel for the recommendation of a minor for participation in the educational program;

"(C) any open enrollment activity, including the method of outreach; and

"(D) any cooperation with, or sponsorship by, a membership organization, including a description of the cooperation or sponsorship and the name of each such organization.

"(2) COST AND FEES.—Information regarding the cost of the educational program and infor-

mation regarding the distribution of any enrollment fee, including—

"(A) the amount paid for, and the percentage of the total educational program cost of, each feature of the educational program, including—

"(i) food;

"(ii) lodging;

"(iii) transportation;

"(iv) program staffing;

"(v) textbooks, syllabi, or other scholastic educational program materials;

"(vi) speaker fees; and

"(vii) administrative expenses, including expenses related to—

"(I) the preparation of nonscholastic educational program materials;

"(II) the provision of financial assistance;

"(III) mailing list rental or other recruitment activity; and

"(IV) administrative salaries and consulting fees;

"(B) the identity of the organization or business providing each of the features described in clauses (i) through (vii) of subparagraph (A); and

"(C) the nature of any relationship of any board member, officer, or employee of the educational organization to any organization or business described in subparagraph (B), including the salary or other compensation paid by such organization or business to such board member, officer, or employee.

"(b) NONDISCRIMINATORY ENROLLMENT AND SERVICE POLICY.—

"(1) IN GENERAL.—Each educational organization shall include a verifiable statement in all enrollment or recruitment material that the educational organization does not—

"(A) fail or refuse to hire, or discharge, any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment; or

"(B) exclude any student from participation in an educational program, discriminate against any student in providing the benefits associated with such program (including any scholarship or financial assistance, and use of any facility), or subject the student to discrimination under such program, on the basis of race, disability, or residence in a low-income area.

"(2) CONSTRUCTION.—Nothing in this subsection shall be construed to entitle a student to—

"(A) participation in an educational program or any benefit associated with such program; or

"(B) a waiver of any fee charged for such participation or benefit.

"(c) ENFORCEMENT.—The Secretary shall—

"(1)(A) widely disseminate information about the requirements of this section to State and local school officials and parents; and

"(B) require educational organizations to submit appropriate information or assurances regarding such organizations' compliance with this section; and

"(2) take whatever other steps the Secretary determines are appropriate to enforce this section, including—

"(A) promulgating regulations;

"(B) establishing a complaint process;

"(C) referring complaints to the relevant Federal, State, or local authorities for appropriate action;

"(D) alerting educational agencies, schools, and parents to the practices of educational organizations that violate the provisions of this section; and

"(E) imposing civil fines (not to exceed \$1,000 per violation) on educational organizations that knowingly violate this section.

"(d) DEFINITIONS.—As used in this section:

"(1) DISABILITY.—The term 'disability' has the same meaning given to such term by section 3(2) of the Americans with Disabilities Act of 1990.

"(2) EDUCATIONAL ORGANIZATION.—(A) Except as provided in subparagraphs (B) and (C), the term 'educational organization' means any organization or entity that—

"(i) provides an educational program for a fee; and

"(ii) recruits students through means such as commercial media, direct mailings, school recruitment programs, school administrators, teachers or staff, or current or former participants in an educational program offered by such organization or entity.

"(B) The definition in subparagraph (A) shall not include—

"(i) a local educational agency, State educational agency, a State department of education, or an elementary or secondary school as defined by the Elementary and Secondary Education Act of 1965;

"(ii) an institution of higher education as defined by section 1201(a) of the Higher Education Act of 1965; or

"(iii) a local organization sponsored by an elementary or secondary school, a recreational organization, an entertainment organization, a local sports activity group, or a social club.

"(C) For the purpose of subsection (a) only, such term does not include an organization or entity that provides an educational program if such organization or entity—

"(i) recruits, for participation in such program, solely through a local school official; and

"(ii) does not offer a local school official, teacher, or other school personnel compensation (other than compensation for actual expenses incurred in performing chaperon activities or for participating in separate, professionally-staffed teacher training and technical assistance seminars and workshops related to such program) or any other benefit for such recruitment.

"(3) EDUCATIONAL PROGRAM.—(A) Except as provided in subparagraph (B), the term 'educational program' means a special honors program, seminar, citizenship experience, government study program, educational vacation, student exchange program, or other educational experience or honor—

"(i) that is generally directed toward minors or secondary school students;

"(ii) for which a tuition or enrollment fee is charged;

"(iii) that is offered away from a student's regular place of school attendance;

"(iv) that includes not less than one supervised night away from home; and

"(v) that is intended to enhance a student's regular course of study.

"(B) Such term does not include a recreational program, or a social or religious activity.

"(4) LOCAL SCHOOL OFFICIAL.—The term 'local school official' means the highest administrative official serving a school district, or such individual's designee.

"(5) MINOR.—The term 'minor' means an individual who has not attained the age of 18 years.

"(6) MEMBERSHIP ORGANIZATION.—The term 'membership organization' includes any organization that maintains a membership list or collects dues or membership fees from its members.

"(7) RECREATIONAL ORGANIZATION.—The term 'recreational organization' includes any organization or entity that has as its primary function pleasure, amusement, or sports activities.

"(8) RECREATIONAL PROGRAM.—The term 'recreational program' includes any activity or service that is intended as an entertainment pastime."

#### PART D—ADMINISTRATION OF EDUCATION PROGRAMS

##### SEC. 241. JOINT FUNDING OF PROGRAMS.

Section 430 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1231) is amended to read as follows:

#### "JOINT FUNDING OF PROGRAMS

"SEC. 430. (a)(1) The Secretary is authorized to enter into arrangements with other Federal agencies to jointly carry out projects of common interest, to transfer to such agencies funds appropriated under any applicable program, and to receive and use funds from such agencies, for projects of common interest.

"(2) Funds transferred or received pursuant to paragraph (1) shall be used only in accordance with the statutes authorizing the appropriation of such funds, and shall be made available by contract or grant only to recipients eligible to receive such funds under such statutes.

"(3) If the Secretary enters into an agreement under this subsection for the administration of a project, the agency administering the project shall use such agency's procedures to award contracts or grants and to administer such awards, unless the parties to the agreement specify the use of procedures of another agency that is a party to the agreement.

"(4) If the Secretary has entered into an agreement authorized under this subsection and the Secretary and the heads of the other agencies participating in the agreement determine that joint funding is necessary to address a special need consistent with the purposes and authorized activities of each program that provides funding under the joint project, the Secretary and the heads of the other participating agencies may develop a single set of criteria for the jointly funded project and require each applicant for such project to submit a single application for review by the participating agencies.

"(b) The Secretary may develop the criteria for, and require the submission of, joint applications under two or more applicable programs under which funds are awarded on a competitive basis, and may jointly review and approve such applications separately from other applications under such programs, when the Secretary determines that such joint awards are necessary to address a special need consistent with the purposes and authorized activities of each such program. Any applicant for such a joint award shall meet the eligibility requirements of each such program.

"(c) The Secretary may not construe the provisions of this section to take precedence over a limitation on joint funding contained in an applicable statute.

"(d)(1) The Secretary shall provide notice to the Committee on Education and Labor of the House of Representatives and to the Committee on Labor and Human Resources of the Senate of each joint funding agreement made with other Federal agencies not later than 60 days after the making of such agreements.

"(2) Such notice shall include—

"(A) a description of the purpose and objectives of the joint funding arrangement;

"(B) the amounts and sources, by program, of the funds dedicated to such arrangement; and

"(C) the criteria developed to govern the award of contracts and grants."

##### SEC. 242. COLLECTION AND DISSEMINATION OF INFORMATION.

Section 431 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1231a) is amended to read as follows:

#### "COLLECTION AND DISSEMINATION OF INFORMATION

"SEC. 422. The Secretary shall—

"(1) prepare and disseminate to State and local educational agencies and institutions information concerning applicable programs, and cooperate with other Federal officials who administer programs affecting education in disseminating information concerning such programs;

"(2) inform the public regarding federally supported education programs; and

"(3) collect data and information on applicable programs for the purpose of obtaining objec-

tive measurements of the effectiveness of such programs in achieving the intended purposes of such programs."

##### SEC. 243. REVIEW OF APPLICATIONS.

Section 432 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1231b-2) is amended—

(1) in subsection (a)—

(A) by striking "Commissioner" and inserting "Secretary";

(B) by striking "and in the case of the program provided for in title I of the Elementary and Secondary Education Act of 1965,";

(C) in the third sentence by inserting a comma after "the hearing"; and

(D) in the fourth sentence—

(i) by striking the comma after "guidelines"; and

(ii) by inserting a comma after "program";

(2) in subsection (b), by striking "Commissioner" each place such term appears and inserting "Secretary"; and

(3) in subsection (d)—

(A) by striking "Commissioner" each place such term appears and inserting "Secretary"; and

(B) by inserting before the period "or issue such other orders as the Secretary may deem appropriate to achieve such compliance".

##### SEC. 244. PARENTAL INVOLVEMENT AND DISSEMINATION.

The matter preceding paragraph (1) of section 434 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1231d) is amended—

(1) in the first sentence—

(A) by striking "Commissioner" and inserting "Secretary"; and

(B) by striking "he" and inserting "the Secretary"; and

(2) in the second sentence by inserting "is made" after "such determination".

##### SEC. 245. USE OF FUNDS WITHHELD.

Section 435 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1231e) is amended to read as follows:

#### "USE OF FUNDS WITHHELD

"SEC. 435. (a) At any time that the Secretary makes an allotment or reallocation to any State under any applicable program, the Secretary shall reduce such allotment or reallocation by such amount as the Secretary determines such allotment or reallocation would have been reduced, had the data on which such allotment or reallocation is based excluded all data relating to local educational agencies of the State that, on the date of the Secretary's action, are ineligible to receive the Federal financial assistance involved because of failure to comply with title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, or the Age Discrimination Act of 1975.

"(b) The Secretary may use any funds withheld under subsection (a)—

"(1) to increase the allotments or reallocations of local educational agencies within the State that are not described in subsection (a), or the allotments or reallocation of all States, in accordance with the Federal law governing the program; or

"(2) for grants to local educational agencies of that State in accordance with section 405 of the Civil Rights Act of 1964, or for any other program administered by the Department that is designed to enhance equity in education or redress discrimination on the basis of race, color, national origin, sex, age, or disability."

##### SEC. 246. APPLICATIONS.

Section 436 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1231g) is amended—

(1) in subsection (a), by striking "for three fiscal years" and inserting "for more than one fiscal year"; and

(2) by striking "Commissioner" each place such term appears and inserting "Secretary".

**SEC. 247. REGULATIONS.**

Section 437 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1232) is amended to read as follows:

**"REGULATIONS**

"SEC. 437. (a) For the purpose of this section, the term 'regulation' means any generally applicable rule, regulation, guideline, interpretation, or other requirement that—

"(1) is prescribed by the Secretary or the Department; and

"(2) has legally binding effect in connection with, or affecting, the provision of financial assistance under any applicable program.

"(b) Regulations shall contain, immediately following each substantive provision of such regulations, citations to the particular section or sections of statutory law or other legal authority on which such provision is based.

"(c) All regulations shall be uniformly applied and enforced throughout the 50 States.

"(d) The exemption for public property, loans, grants and benefits in section 553(a)(2) of title 5, United States Code, shall apply only to regulations—

"(1) that govern the first grant competition under a new or substantially revised program authority as determined by the Secretary; or

"(2) where the Secretary determines that the requirements of this subsection will cause extreme hardship to the intended beneficiaries of the program affected by such regulations.

"(e) Not later than 60 days after the date of enactment of any Act, or any portion of any Act, affecting the administration of any applicable program, the Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a schedule in accordance with which the Secretary plans to promulgate final regulations that the Secretary determines are necessary to implement such Act or portion of such Act. Such schedule shall provide that all such final regulations shall be promulgated within 360 days after the date of enactment of such Act or portion of such Act.

"(f) Concurrently with the publication of any final regulations, the Secretary shall transmit a copy of such final regulations to the Speaker of the House of Representatives and the President pro tempore of the Senate."

**SEC. 248. RECORDS; REDUCTION IN RETENTION REQUIREMENTS.**

Section 443 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1232f) is amended—

(1) in subsection (a)—

(A) by striking "grant, subgrant, contract, subcontract, loan, or other arrangement (other than procurement contracts awarded by an administrative head of an educational agency)" and inserting "grant, subgrant, cooperative agreement, loan, or other arrangement";

(B) by inserting "financial or programmatic" before "audit."; and

(C) in the last sentence, by striking "five" and inserting "three"; and

(2) in subsection (b), by striking "to any records of a recipient which may be related, or pertinent to, the grants, subgrants, contracts, subcontracts, loans, or other arrangements" and inserting "to any records maintained by a recipient that may be related, or pertinent to, grants, subgrants, cooperative agreements, loans, or other arrangements".

**SEC. 249. PRIVACY RIGHTS.**

Section 444 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1232g) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively;

(ii) by inserting after subparagraph (A) the following new subparagraph:

"(B) No funds under any applicable program shall be made available to any State educational agency (whether or not that agency is an educational agency or institution under this section) that has a policy of denying, or effectively prevents, the parents of students the right to inspect and review the education records maintained by the State educational agency on their children who are or have been in attendance at any school of an educational agency or institution that is subject to the provisions of this section.";

(iii) in clause (iii) of subparagraph (C) (as redesignated by clause (i)), by striking "(C)" and inserting "(D)"; and

(iv) in subparagraph (D) (as redesignated by clause (i)), by striking "(B)" and inserting "(C)"; and

(B) in paragraph (2), by striking "or other rights" and inserting "rights";

(2) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (A), by inserting ", including the educational interests of the child for whom consent would otherwise be required" before the semicolon;

(ii) by amending subparagraph (E) to read as follows:

"(E) State and local officials or authorities to whom such information is specifically allowed to be reported or disclosed pursuant to State statute adopted—

"(i) before November 19, 1974, if the allowed reporting or disclosure concerns the juvenile justice system and such system's ability to effectively serve the student whose records are released, or

"(ii) after November 19, 1974, if—

"(I) the allowed reporting or disclosure concerns the juvenile justice system and such system's ability to effectively serve, prior to adjudication, the student whose records are released; and

"(II) the officials and authorities to whom such information is disclosed certify in writing to the educational agency or institution that the information will not be disclosed to any other party except as provided under State law without the prior written consent of the parent of the student.";

(iii) in subparagraph (H), by striking "and" after the semicolon;

(iv) in subparagraph (I), by striking the period and inserting "; and"; and

(v) by adding at the end the following new subparagraph:

"(J)(i) the entity or persons designated in a Federal grand jury subpoena, in which case the court shall order, for good cause shown, the educational agency or institution (and any officer, director, employee, agent, or attorney for such agency or institution) on which the subpoena is served, to not disclose to any person the existence or contents of the subpoena or any information furnished to the grand jury in response to the subpoena; and

"(ii) the entity or persons designated in any other subpoena issued for a law enforcement purpose, in which case the court or other issuing agency may order, for good cause shown, the educational agency or institution (and any officer, director, employee, agent, or attorney for such agency or institution) on which the subpoena is served, to not disclose to any person the existence or contents of the subpoena or any information furnished in response to the subpoena.";

(B) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by striking the period and inserting ", unless—"; and

(ii) in subparagraph (B), by inserting "except as provided in paragraph (1)(J)," before "such information"; and

(C) in subparagraph (B) of paragraph (4), by adding at the end the following new sentence: "If a third party outside the educational agency or institution permits access to information in violation of paragraph (2)(A), or fails to destroy information in violation of paragraph (1)(F), the educational agency or institution shall be prohibited from permitting access to information from education records to that third party for a period of not less than five years.";

(3) in subsection (c), by striking "The Secretary shall adopt appropriate regulations to" and inserting "Not later than 240 days after the date of enactment of the Improving America's Schools Act of 1994, the Secretary shall adopt appropriate regulations or procedures, or identify existing regulations or procedures, which";

(4) in subsection (e), by inserting "effectively" before "informs"; and

(5) by adding at the end the following new subsection:

"(h) Nothing in this section shall prohibit an educational agency or institution from—

"(1) including appropriate information in the education record of any student concerning disciplinary action taken against such student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community; or

"(2) disclosing such information to teachers and school officials, including teachers and school officials in other schools, who have legitimate educational interests in the behavior of the student."

**SEC. 250. ENFORCEMENT.**

(a) RECOVERY OF FUNDS.—Section 452 of the Act (20 U.S.C. 1234a) is amended—

(1) in the first sentence of paragraph (2) of subsection (a), by striking "stating" and all that follows through the end of such sentence and inserting "establishing a prima facie case for the recovery of funds, including an analysis reflecting the value of the program services actually obtained in a determination of harm to the Federal interest.";

(2) in the first sentence of paragraph (1) of subsection (b), by striking "30" and inserting "60"; and

(3) in subsection (d), by—

(A) striking "(d) Upon" and inserting "(d)(1) Upon"; and

(B) adding at the end the following new paragraph:

"(2) During the conduct of such review, there shall not be any ex parte contact between the Secretary and individuals representing the Department or the recipient."

(b) USE OF RECOVERED FUNDS.—Section 459 of the Act (20 U.S.C. 1234h) is amended—

(1) in paragraph (1) of subsection (a), by inserting ", provided that the recipient was notified of any noncompliance with such requirements and given a reasonable period of time to remedy such noncompliance" before the semicolon; and

(2) by amending subsection (c) to read as follows:

"(c) Notwithstanding any other provisions of law, the funds made available under this section shall remain available for expenditure for a period of time deemed reasonable by the Secretary, but in no case to exceed more than three fiscal years following the later of—

"(1) the fiscal year in which final agency action under section 452(e) is taken; or

"(2) if such recipient files a petition for judicial review, the fiscal year in which final judicial action under section 458 is taken."

**PART E—TECHNICAL AND CONFORMING AMENDMENTS****SEC. 261. TECHNICAL AND CONFORMING AMENDMENTS.**

(a) PAYMENTS.—Section 423 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C.

1226a-1) is amended by striking "Commissioner" and inserting "Secretary".

(b) PROGRAM PLANNING AND EVALUATION.—Section 426 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1228) is amended—

(1) by striking "title I of" and all that follows through "Congress" and inserting "title VIII of the Elementary and Secondary Education Act of 1965"; and

(2) by striking "subparagraph (C) of section 3(d)(2) or section 403(1)(C) of that Act" and inserting "subsections (d) and (g) of section 8003 of such Act or residing on property described in section 8013(10) of such Act".

(c) HEADING FOR PART C.—The heading for part C of the Act (20 U.S.C. 1230 et seq.) is amended by striking "COMMISSIONER OF EDUCATION" and inserting "SECRETARY".

(d) SECTION 439.—Section 439 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1232b) is amended by striking "Except for emergency relief under section 7 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), all laborers" and inserting "All laborers".

(e) SECTION 440.—

(1) AMENDMENT TO HEADING.—The heading for section 440 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1232c) is amended by striking "EDUCATIONAL".

(2) AMENDMENT TO TEXT.—Section 440 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1232c) is amended—

(A) by striking "Commissioner" each place such term appears and inserting "Secretary";

(B) by redesignating the matter following paragraph (3) of subsection (b) as subsection (c); and

(C) in subsection (c) (as redesignated by subparagraph (B)), by striking "paragraph (3)" and inserting "subsection (b)(3)".

(f) SECTION 441.—Section 441 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1232d) is amended—

(1) by striking "Commissioner" each place such term appears and inserting "Secretary"; and

(2) in the first sentence of subsection (a)—

(A) by striking the comma after "submits a plan";

(B) by striking ", in the case of programs under chapter 1 and chapter 2 of title I of the Elementary and Secondary Education Act of 1965"; and

(C) by striking "title V of such Act" and inserting "part C of title V of the Elementary and Secondary Education Act of 1965".

(g) SECTION 442.—Section 442 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1232e) is amended—

(1) in subsection (a), by striking "that local education agency" and inserting "that local educational agency"; and

(2) in subsection (b)—

(A) in paragraph (2), by inserting a comma after "program";

(B) in paragraph (4), by striking "Commissioner" each place such term appears and inserting "Secretary"; and

(C) in subparagraph (B) of paragraph (7), by striking "handicapped individuals" and inserting "individuals with disabilities".

(h) SECTION 444.—Section 444 of the Act (as redesignated by section 212(b)(1)) and amended by section 249 (20 U.S.C. 1232g) is further amended—

(1) in clause (ii) of subsection (a)(4)(B), by striking the period and inserting a semicolon;

(2) in subsection (b)—

(A) in subparagraph (C) of paragraph (1), by striking "(iii) an administrative head of an education agency (as defined in section 408(c)), or (iv)" and inserting "or (iii)";

(B) in subparagraph (H) of paragraph (1), by striking "1954" and inserting "1986"; and

(C) in paragraph (3)—

(i) by striking "(C) an administrative head of an education agency or (D)" and inserting "or (C)"; and

(ii) by striking "education program" and inserting "education programs";

(3) in subsection (d), by inserting a comma after "education";

(4) in subsection (f)—

(A) by striking ", or an administrative head of an education agency";

(B) by striking "enforce provisions of this section" and inserting "enforce this section";

(C) by striking "according to the provisions of" and inserting "in accordance with"; and

(D) by striking "comply with the provisions of this section" and inserting "comply with this section"; and

(5) in subsection (g)—

(A) by striking "of Health, Education, and Welfare"; and

(B) by striking "the provisions of".

(i) CONFORMING AMENDMENT AND CROSS REFERENCES.—

(1) CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT.—Subsection (b) of section 504 of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2466a(b)) is amended—

(A) by striking "240-day" and inserting "360-day"; and

(B) by striking "431(g)" and inserting "437(e)".

(2) HIGHER EDUCATION ACT OF 1965.—Subsection (c) of section 556 of the Higher Education Act of 1965 (20 U.S.C. 1108d(c)) is amended by striking "435 and 436" and inserting "441 and 442".

(3) EDUCATION AND TRAINING FOR A COMPETITIVE AMERICA ACT OF 1988.—Paragraph (1) of section 6144 of the Education and Training for a Competitive America Act of 1988 (20 U.S.C. 5124(1)) is amended by striking "405(d)(4)(A)(i) of the General Education Provisions Act (20 U.S.C. 1221e(d)(4)(A)(i))" and inserting "section 941(h) of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (20 U.S.C. 6041(h))".

#### PART F—RELATED AMENDMENTS TO OTHER ACTS

##### SEC. 271. DEPARTMENT OF EDUCATION ORGANIZATION ACT.

(a) REPEALS AND REDESIGNATIONS.—

(1) REPEALS.—Section 427 of the Department of Education Organization Act (20 U.S.C. 3487) (hereafter in this part referred to as the "Act") is repealed.

(2) REDESIGNATION.—Sections 209, 210, 211, 212, 214, 303, 304, 305, 306, 307, and 428 of the Act are redesignated as sections 208, 209, 210, 211, 212, 302, 303, 304, 305, 306, and 427 of the Act, respectively.

(3) CROSS REFERENCES.—(A) Paragraph (2) of section 401(b) of the Act (20 U.S.C. 3461(b)(2)) is amended by striking "209" and inserting "208".

(B) Paragraph (9) of section 912(1) of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (20 U.S.C. 6011(1)(9)) is amended by striking "209" and inserting "208".

(b) GENDER EQUITY.—Subsection (b) of section 202 of the Act (20 U.S.C. 3412) is amended by inserting after paragraph (2) the following new paragraph:

"(3) There shall be in the Department, a Special Assistant for Gender Equity who shall be appointed by the Secretary. The Special Assistant shall promote, coordinate, and evaluate gender equity programs, including the dissemination of information, technical assistance, and coordination of research activities. The Special Assistant shall advise the Secretary and Deputy Secretary on all matters relating to gender equity."

(c) OFFICE OF NON-PUBLIC EDUCATION.—Title II of the Act (20 U.S.C. 3411 et seq.) is amended by adding immediately before section 215 the following new section:

#### "OFFICE OF NON-PUBLIC EDUCATION

"SEC. 214. There shall be in the Department an Office of Non-Public Education to ensure the maximum potential participation of non-public school students in all Federal educational programs for which such students are eligible."

(d) RULES; ACQUISITION AND MAINTENANCE OF PROPERTY.—Part B of title IV of the Act (20 U.S.C. 3471 et seq.) is amended—

(1) in section 414 (20 U.S.C. 1226a)—

(A) by striking "(a)"; and

(B) by striking subsection (b); and

(2) in section 421 (20 U.S.C. 1230), by inserting "and to accept donations of services," after "personal,".

(e) TABLE OF CONTENTS.—The table of contents contained in section 1 of the Act (20 U.S.C. 3401 note) is amended to read as follows:

#### "TABLE OF CONTENTS

"Sec. 1. Short title; table of contents.

#### "TITLE I—GENERAL PROVISIONS

"Sec. 101. Findings.

"Sec. 102. Purposes.

"Sec. 103. Federal-State Relationships.

"Sec. 104. Definitions.

#### "TITLE II—ESTABLISHMENT OF THE DEPARTMENT

"Sec. 201. Establishment.

"Sec. 202. Principal officers.

"Sec. 203. Office for Civil Rights.

"Sec. 204. Office of Elementary and Secondary Education.

"Sec. 205. Office of Postsecondary Education.

"Sec. 206. Office of Vocational and Adult Education.

"Sec. 207. Office of Special Education and Rehabilitative Services.

"Sec. 208. Office of Educational Research and Improvement.

"Sec. 209. Office of Bilingual Education and Minority Languages Affairs.

"Sec. 210. Office of General Counsel.

"Sec. 211. Office of Inspector General.

"Sec. 212. Office of Non-Public Education.

"Sec. 213. Office of Indian Education.

"Sec. 214. Office of Non-Public Education.

"Sec. 215. Office of Indian Education.

"Sec. 216. Office of Bilingual Education and Minority Languages Affairs.

"Sec. 217. Federal Interagency Committee on Education.

#### "TITLE III—TRANSFERS OF AGENCIES AND FUNCTIONS

"Sec. 301. Transfers from the Department of Health, Education, and Welfare.

"Sec. 302. Transfers from the Department of Labor.

"Sec. 303. Transfers of programs from the National Science Foundation.

"Sec. 304. Transfers from the Department of Justice.

"Sec. 305. Transfers from the Department of Housing and Urban Development.

"Sec. 306. Effect of transfers.

#### "TITLE IV—ADMINISTRATIVE PROVISIONS

##### "PART A—PERSONNEL PROVISIONS

"Sec. 401. Officers and employees.

"Sec. 402. Experts and consultants.

"Sec. 403. Personnel reduction and annual limitations.

##### "PART B—GENERAL ADMINISTRATIVE PROVISIONS

"Sec. 411. General authority.

"Sec. 412. Delegation.

"Sec. 413. Reorganization.

"Sec. 414. Rules.

"Sec. 415. Contracts.

"Sec. 416. Regional and field offices.  
 "Sec. 417. Acquisition and maintenance of property.  
 "Sec. 418. Facilities at remote locations.  
 "Sec. 419. Use of facilities.  
 "Sec. 420. Copyrights and patents.  
 "Sec. 421. Gifts and bequests.  
 "Sec. 422. Technical advice.  
 "Sec. 423. Working capital fund.  
 "Sec. 424. Funds transfer.  
 "Sec. 425. Seal of department.  
 "Sec. 426. Annual report.  
 "Sec. 427. Authorization of appropriations.

**"TITLE V—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS"**

"Sec. 501. Transfer and allocation of appropriations and personnel.  
 "Sec. 502. Effect on personnel.  
 "Sec. 503. Agency terminations.  
 "Sec. 504. Incidental transfers.  
 "Sec. 505. Savings provisions.  
 "Sec. 506. Separability.  
 "Sec. 507. Reference.  
 "Sec. 508. Amendments.  
 "Sec. 509. Redesignation.  
 "Sec. 510. Coordination of programs affecting handicapped individuals.  
 "Sec. 511. Transition.

**"TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS"**

"Sec. 601. Effective date.  
 "Sec. 602. Interim appointments."

**SEC. 272. THE REHABILITATION ACT OF 1973.**

Section 9 of the Rehabilitation Act of 1973 (29 U.S.C. 706) is repealed.

**TITLE III—AMENDMENTS TO OTHER ACTS  
 PART A—AMENDMENTS TO THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT**

**SEC. 311. ALLOCATIONS UNDER SECTION 611.**

(a) MAXIMUM AMOUNT.—Subsection (a) of section 611 of the Individuals with Disabilities Education Act (hereafter in this part referred to as the "Act") (20 U.S.C. 1411(a)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) Except as provided in paragraph (5), the maximum amount of the grant for which a State is entitled under this section for any fiscal year is—

"(A) the sum of—  
 "(i) the number of children with disabilities in the State, aged 6 through 21, who are receiving special education and related services, as determined under paragraph (3); and  
 "(ii) if the State is eligible for a grant under section 619, the number of such children in the State, aged 3 through 5; multiplied by

"(B) 40 percent of the average per-pupil expenditure in public elementary and secondary schools in the United States";

(2) by amending paragraph (2) to read as follows:

"(2) For the purpose of this section, the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico"; and

(3) in subparagraph (A) of paragraph (5)—

(A) in clause (i)—

(i) by striking "and the State" and inserting "or the combined percentage of such children counted by the Secretary for the purpose of making fiscal year 1994 allocations under this section and under subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as such subpart was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994), whichever is greater, if the State"; and  
 (ii) by inserting "and" after the comma at the end;

(B) in clause (ii)—

(i) by striking "and the State" and inserting "or the combined percentage of such children counted by the Secretary for the purpose of making fiscal year 1994 allocations under this section and under subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as such subpart was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994), whichever is greater, if the State"; and  
 (ii) by striking "and" and inserting a period; and

(C) by striking clause (iii).

(b) STATE USES.—Subsection (b) of section 611 of the Act (20 U.S.C. 1411(b)) is amended to read as follows:

"(b)(1) Notwithstanding subsections (a) and (g), no State shall receive an amount under this section for any of the fiscal years 1995 through 1999 that is less than the sum of the amount such State received for fiscal year 1994 under—  
 "(A) this section; and  
 "(B) subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as such subpart was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) for children with disabilities aged 3 through 21.

"(2) If, for fiscal year 1998 or 1999, the number of children determined under subsection (a)(3) for any State is less than the total number of children with disabilities, aged 3 through 21, counted for that State's fiscal year 1994 grants under this section and under subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as such subpart was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994), then the amount determined under paragraph (1) for that State shall be reduced by the same percentage by which the number of those children so declined.

"(3)(A) If the sums made available under this part for any fiscal year are insufficient to pay the full amounts that all States are eligible to receive under paragraphs (1) and (2) for such year, the Secretary shall ratably reduce the allocations to such States for such year.

"(B) If additional funds become available for making payments under paragraphs (1) and (2) for such fiscal year, allocations that were reduced under subparagraph (A) shall be increased on the same basis as such allocations were reduced."

(c) DISTRIBUTION.—Subsection (c) of section 611 of the Act (20 U.S.C. 1411(c)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) Of the funds received under subsection (a) by any State for any fiscal year—

"(A) a State may use not more than 25 percent of such funds in accordance with paragraph (2); and

"(B) except as provided in paragraph (4), the State shall distribute at least 75 percent of such funds to local educational agencies and intermediate educational units, in accordance with subsection (d), for use in accordance with priorities established under section 612(3)"; and  
 (2) in paragraph (2), by amending subparagraph (A) to read as follows:

"(A) From the funds that any State may use under paragraph (1)(A) for any fiscal year, the State—

"(i) may use 5 percent of the funds received under this section or \$450,000, whichever is greater, for administrative costs related to carrying out sections 612 and 613; and  
 "(ii) shall use the remainder—

"(1) to provide support services and direct services, subject to subparagraph (B), in accordance with priorities established under section 612(3); and  
 "(II) for the administrative costs of monitoring and complaint investigation, but only to the

extent that such costs exceed the costs of administration incurred during fiscal year 1985."

(d) FORMULA.—Subsection (d) of section 611 of the Act (20 U.S.C. 1411(d)) is amended to read as follows:

"(d)(1) From the total amount of funds available for any fiscal year under subsection (c)(1)(B), the State shall provide to each local educational agency or intermediate educational unit an amount that bears the same ratio to such total amount as the number of children, aged 3 through 21, determined under subsection (a)(3) for such agency or unit bears to the total number of such children determined for all such agencies and units that apply for such funds.

"(2)(A) To the extent necessary, the State—

"(i) shall use funds available under subsection (c)(2)(A)(ii) to ensure that each State agency that received funds for fiscal year 1994 under subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as such subpart was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) receives, from the sum of such funds and funds provided under paragraph (1), an amount equal to—  
 "(1) the number of children, aged 6 through 21, determined under subsection (a)(3) for such agency; multiplied by  
 "(11) the per-child amount provided under such subpart for fiscal year 1994; and  
 "(ii) may use such funds to ensure that each local educational agency that received for fiscal year 1994 under such subpart for children who had transferred from a State-owned, State-operated, or State-supported school or program assisted under such subpart receives, from the sum of such funds and funds provided under paragraph (1), an amount for each such child, aged 3 through 21, determined under subsection (a)(3) for such agency, equal to the per-child amount the agency received under such subpart for fiscal year 1994.

"(B) For the purpose of subparagraph (A), the number of children determined under subsection (a)(3) for any State agency or local educational agency shall not exceed the number of children aged 3 through 21 for whom such agency received funds under such subpart for such fiscal year."

(e) JURISDICTIONS.—Paragraph (1) of section 611(e) of the Act (20 U.S.C. 1411(e)(1)) is amended to read as follows:

"(1) The jurisdictions to which this subsection applies are Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and Palau (until the Compact of Free Association with the Government of Palau takes effect)."

(f) INSUFFICIENT APPROPRIATIONS.—Subsection (g) of section 611 of the Act (20 U.S.C. 1411(g)) is amended to read as follows:

"(g)(1)(A) If the sums appropriated under subsection (h) for any fiscal year are not sufficient to pay in full the total of the amounts that all States are eligible to receive under subsection (a), each such amount shall be ratably reduced.  
 "(B) If additional funds become available for making such payments for any fiscal year, such reduced amounts shall be increased on the same basis as such payments were reduced.

"(C) Any State that receives any such additional funds shall distribute such funds in accordance with this section, except that any State that has used funds available under subsection (c)(2)(A)(ii) for the purposes described in subsection (d)(2) may—

"(i) deduct, from the amount that the State would otherwise be required to make available to local educational agencies and intermediate educational units, the same amount of such additional funds as the State so used; and  
 "(ii) use such funds in accordance with subsection (c)(2)(A)(ii).

"(2)(A) In any fiscal year for which payments have been reduced and additional funds have not been made available under paragraph (1) to pay in full the amounts for which all States are eligible under this section, each State educational agency shall fix dates by which each local educational agency or intermediate educational unit shall report to the State agency the amount of funds available to such agency under this section that such agency estimates such agency will expend.

"(B) The State educational agency shall, in accordance with this section, reallocate any funds that the State educational agency determines will not be used during the period of availability by local educational agencies and intermediate educational units, and by any such agency or unit to which such funds would be available if such agency or unit applied for such funds under this part, to those local educational agencies and intermediate educational units that the State educational agency determines will need, and be able to use, additional funds to carry out approved programs."

#### SEC. 312. TREATMENT OF CHAPTER 1 STATE AGENCIES.

Part B of the Act (20 U.S.C. 1411 et seq.) is further amended by inserting after section 614 the following new section:

##### "TREATMENT OF CHAPTER 1 STATE AGENCIES

"SEC. 614A. (a) For the purpose of making payments under sections 611 and 619 of this Act, any State agency that received funds for fiscal year 1994 under subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as such subpart was in existence on the day preceding the date of enactment of the Improving America's Schools Act of 1994) shall be treated as if the State agency were a local educational agency.

"(b) Any State agency which desires to receive payments under section 611(d) and section 619(c)(3) for any fiscal year shall submit an application to the State educational agency. Such application shall—

"(1) include an assurance that all children with disabilities who are participating in programs and projects funded under this part receive a free appropriate public education, and that such children and their parents are provided all the rights and procedural safeguards described in this part; and

"(2) meet those requirements of section 614 that the Secretary finds appropriate.

"(c) Section 611(c)(4) shall not apply with respect to a State agency that is eligible for a payment under this part by application of this section."

#### SEC. 313. INFANTS AND TODDLERS WITH DISABILITIES.

(a) AMENDMENT.—Subsection (c) of section 684 of the Act (20 U.S.C. 1484) is amended—

(1) by redesignating paragraph (2) as paragraph (6);

(2) by amending paragraph (1) to read as follows:

"(1) Except as provided in paragraphs (3), (4), and (5) from the funds remaining for each fiscal year after the reservation and payments under subsections (a) and (b), the Secretary shall first allot to each State an amount that bears the same ratio to the amount of such remainder as the number of infants and toddlers in the State bears to the number of infants and toddlers in all States"; and

(3) by inserting after paragraph (1) the following new paragraphs:

"(2) For fiscal year 1995 only, the Secretary shall allot \$34,000,000 of the remaining funds described in paragraph (1) among the States in proportion to their relative numbers of infants and toddlers with disabilities who—

"(A) are counted on December 1, 1994; and  
 "(B) would have been eligible to be counted under section 1221(c)(1) of the Elementary and

Secondary Education Act of 1965 (as such section was in effect on the day preceding the date of the enactment of the Improving America's Schools Act of 1994).

"(3) Except as provided in paragraphs (4) and (5), no State shall receive an amount under this section for any fiscal year that is less than the greater of—

"(A) one-half of one percent of the remaining amount described in paragraph (1), excluding any amounts allotted under paragraph (2); or  
 "(B) \$500,000.

"(4)(A) Except as provided in paragraph (5), no State shall receive an amount under this section for any of the fiscal years 1995 through 1999 that is less than the sum of the amount such State received for fiscal year 1994 under—

"(i) this part; and  
 "(ii) subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as such subpart was in existence on the day preceding the date of enactment of the Improving America's Schools Act of 1994) for children with disabilities from birth through age 2.

"(B) If, for fiscal year 1998 or 1999, the number of infants and toddlers in any State, as determined under paragraph (1), is less than the number of infants and toddlers so determined for fiscal year 1994, the amount determined under subparagraph (A) for that State shall be reduced by the same percentage by which the number of those infants and toddlers so declined.

"(5)(A) If the sums made available under this part for any fiscal year are insufficient to pay the full amounts that all States are eligible to receive under this subsection for such year, the Secretary shall ratably reduce the allocations to such States for such year.

"(B) If additional funds become available for making payments under this subsection for such fiscal year, allocations that were reduced under subparagraph (A) shall be increased on the same basis as such allocations were reduced."

(b) EFFECTIVE DATE.—Subsection (a) and the amendments made by subsection (a) shall take effect on October 1, 1994.

#### SEC. 314. LOCAL CONTROL OVER VIOLENCE.

(a) AMENDMENTS.—

(1) IN GENERAL.—Paragraph (3) of section 615(e) of the Act (20 U.S.C. 1415(e)(3)) is amended—

(A) by striking "During" and inserting "(A) Except as provided in subparagraph (B), during"; and

(B) by adding at the end the following new subparagraph:

"(B)(i) Except as provided in clause (iii), if the proceedings conducted pursuant to this section involve a child with a disability who is determined to have brought a weapon to school under the jurisdiction of such agency, then the child may be placed in an interim alternative educational setting, in accordance with State law, for not more than 45 days.

"(ii) The interim alternative educational setting described in clause (i) shall be decided by the individuals described in section 602(a)(20).

"(iii) If a parent or guardian of a child described in clause (i) requests a due process hearing pursuant to paragraph (2) of subsection (b), then the child shall remain in the alternative educational setting described in such clause during the pendency of any proceedings conducted pursuant to this section, unless the parents and the local educational agency agree otherwise.

"(iv) For the purpose of this section, the term 'weapon' means a firearm as such term is defined in section 921 of title 18, United States Code."

(2) EFFECTIVE DATE.—Paragraph (1) and the amendments made by paragraph (1) shall be ef-

fective during the period beginning on the date of enactment of this Act and ending on the date of enactment of an Act (enacted after the date of the enactment of this Act) that reauthorizes the Individuals with Disabilities Education Act.

(b) LIMITATION.—Nothing in the Individuals with Disabilities Education Act shall supersede the provisions of section 14601 of the Elementary and Secondary Education Act if a child's behavior is unrelated to such child's disability, except that this section shall be interpreted in a manner that is consistent with the Department's final guidance concerning State and local responsibilities under the Gun-Free Schools Act of 1994.

#### SEC. 315. FAMILY SUPPORT FOR FAMILIES OF CHILDREN WITH DISABILITIES.

The Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) is amended by adding at the end the following new part:

##### "PART I—FAMILY SUPPORT

###### "SEC. 701. SHORT TITLE.

"This part may be cited as the 'Families of Children With Disabilities Support Act of 1994'.

###### "SEC. 702. FINDINGS, PURPOSES, AND POLICY.

"(a) FINDINGS.—The Congress makes the following findings:

"(1) It is in the best interest of our Nation to preserve, strengthen, and maintain the family.

"(2) Families are the greatest natural resource available to their children and are the major providers of support, care, and training of their children.

"(3) Families of children with disabilities enrich the lives of all citizens through the contributions of such families to the economic, health, and social fabric of their community, State, and Nation.

"(4) A growing number of families are searching for ways to empower themselves to raise their children with disabilities at home and in their communities. Supporting such families to enable them to care for their children with disabilities at home is efficient and can be cost-effective.

"(5) Children, including children with disabilities, benefit from enduring family relationships in a nurturing home environment.

"(6) Many families experience exceptionally high financial outlays and significant physical and emotional challenges in meeting the special needs of their children with disabilities.

"(7) There are financial disincentives for families to care for their children with disabilities at home.

"(8) Most families of children with disabilities do not have access to family-centered and family-directed services to support such families in their efforts to care for their children with disabilities at home.

"(9) There is a need in each State for a comprehensive, coordinated, interagency system of family support for families of children with disabilities that is family-centered and family-directed, is easily accessible, avoids duplication, uses existing resources more efficiently, and prevents gaps in services to families in all areas of the State.

"(10) The goals of the Nation properly include the goal of providing families of children with disabilities the family support necessary to accomplish the following:

"(A) To support the family.

"(B) To enable families of children with disabilities to nurture and enjoy their children at home.

"(C) To enable families of children with disabilities to make informed choices and decisions regarding the nature of services, supports, and resources made available to such families.

"(b) PURPOSES.—The purposes of this part are as follows:

"(1) To provide financial assistance to the States to support systems change activities designed to assist each State to develop and implement, or expand and enhance, a family-centered

and family-directed, culturally competent, community-centered, comprehensive, statewide system of family support for families of children with disabilities that is designed to—

“(A) ensure the full participation, choice and control of families of children with disabilities in decisions related to the provision of such family support for their family;

“(B) ensure the active involvement of families of children with disabilities in the planning, development, implementation, and evaluation of such a statewide system;

“(C) increase the availability of, funding for, access to, and provision of family support for families of children with disabilities;

“(D) promote training activities that are family-centered and family-directed and that enhance the ability of family members of children with disabilities to increase participation, choice, and control in the provision of family support for families of children with disabilities;

“(E) increase and promote interagency coordination among State agencies, and between State agencies and private entities that are involved in carrying out activities under section 708; and

“(F) increase the awareness of laws, regulations, policies, practices, procedures, and organizational structures, which facilitate or impede the availability or provision of family support for families of children with disabilities.

“(2) To enhance the ability of the Federal Government to—

“(A) identify Federal policies that facilitate or impede family support for families of children with disabilities, and that are consistent with the principles in subsection (c);

“(B) provide States with technical assistance and information relating to the provision of family support for families of children with disabilities;

“(C) conduct an evaluation of the program of grants to States; and

“(D) provide funding for model demonstration and innovation projects.

“(c) POLICY.—It is the policy of the United States that all programs, projects, and activities receiving assistance under this part shall be family-centered and family-directed and shall be carried out in a manner consistent with the following principles:

“(1) Family support for families of children with disabilities must focus on the needs of the entire family.

“(2) Families of children with disabilities should be supported in determining their needs and in making decisions concerning necessary, desirable, and appropriate services.

“(3) Families should play decisionmaking roles in policies and programs that affect the lives of such families.

“(4) Family needs change over time and family support for families of children with disabilities must offer options that are flexible and responsive to the unique needs and strengths and cultural values of individual families.

“(5) Family support for families of children with disabilities is proactive and not solely in response to a crisis.

“(6) Families must be supported in their efforts to promote the integration and inclusion of their children with disabilities into all aspects of community life.

“(7) Family support for families of children with disabilities should promote the use of existing social networks, strengthen natural sources of support, and help build connections to existing community resources and services.

“(8) Youth with disabilities should be involved in decisionmaking about their own lives, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities of each such youth.

“(9) Services and supports must be provided in a manner that demonstrates respect for individ-

ual dignity, personal responsibility, self-determination, personal preferences, and cultural differences of families.

“(d) RULE OF CONSTRUCTION.—Nothing in this part shall be construed to prevent families from choosing an out-of-home placement for their children with disabilities, including institutional placement for such children.

#### “SEC. 703. DEFINITIONS.

“For the purposes of this part, only the following definitions shall apply:

“(1) CHILD WITH A DISABILITY.—The term ‘child with a disability’ means an individual who from birth through 21 years of age meets the definition of disability under paragraph (4).

“(2) COUNCIL.—The term ‘Council’ means an existing Council, or a new Council, which is considered as a State Policy Council for Families of Children with Disabilities under section 707.

“(3) CULTURALLY COMPETENT.—The term ‘culturally competent’ means services, supports, or other assistance that is conducted or provided in a manner that—

“(A) is responsive to the beliefs, interpersonal styles, attitudes, language, and behaviors of those individuals receiving services; and

“(B) has the greatest likelihood of ensuring maximum participation of such individuals.

“(4) DISABILITY.—The term ‘disability’ means—

“(A) in the case of an individual 6 years of age or older, a significant physical or mental impairment as defined pursuant to State policy to the extent that such policy is established without regard to type of disability; and

“(B) in the case of infants and young children, birth to age 5, inclusive, a substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in a disability if services are not provided.

“(5) EXISTING COUNCIL.—The term ‘existing Council’ means an entity or a committee of an entity that—

“(A) is established by a State prior to the date on which the State submits an application for funding under this part;

“(B) has authority to advise the State with respect to family support for families of children with disabilities; and

“(C) may have the authority to carry out other responsibilities and duties.

“(6) FAMILY.—The term ‘family’ means a group of interdependent persons residing in the same household that consists of a child with a disability and one or more of the following:

“(A) A mother, father, brother, sister or any combination.

“(B) Extended blood relatives, such as a grandparent, aunt, or uncle.

“(C) An adoptive parent.

“(D) One or more persons to whom legal custody of a child with a disability has been given by a court.

“(E) A person providing short-term foster care that includes a family reunification plan with the biological family.

“(F) A person providing long-term foster care for a child with a disability.

The term does not include employees who, acting in their paid employment capacity, provide services to children with disabilities in out-of-home settings such as hospitals, nursing homes, personal care homes, board and care homes, group homes, or other facilities.

“(7) FAMILY-CENTERED AND FAMILY-DIRECTED.—The term ‘family-centered and family-directed’ means, with respect to a service or program, that the service or program—

“(A) facilitates the full participation, choice, and control by families of children with disabilities in—

“(i) decisions relating to the supports that will meet the priorities of the family; and

“(ii) the planning, development, implementation, and evaluation of the statewide system of family support for families of children with disabilities;

“(B) responds to the needs of the entire family of a child with a disability in a timely and appropriate manner; and

“(C) is easily accessible to and usable by families of children with disabilities.

“(8) FAMILY SATISFACTION.—The term ‘family satisfaction’ means the extent to which a service or support meets a need, solves a problem, or adds value for a family, as determined by the individual family.

“(9) FAMILY SUPPORT FOR FAMILIES OF CHILDREN WITH DISABILITIES.—The term ‘family support for families of children with disabilities’—

“(A) means supports, resources, services, and other assistance provided to families of children with disabilities that are designed to—

“(i) support families in the efforts of such families to raise their children with disabilities in the family home;

“(ii) strengthen the role of the family as primary caregiver;

“(iii) prevent inappropriate and unwanted out-of-the-home placement and maintain family unity; and

“(iv) reunite families with children with disabilities who have been placed out of the home, whenever possible; and

“(B) includes—

“(i) service coordination that includes individualized planning and brokering for services with families in control of decisionmaking;

“(ii) goods and services, which may include specialized diagnosis and evaluation, adaptive equipment, respite care (in and out of the home), personal assistance services, homemaker or chore services, behavioral supports, assistive technology services and devices, permanency or future planning, home and vehicle modifications and repairs, equipment and consumable supplies, transportation, specialized nutrition and clothing, counseling services and mental health services for family members, family education or training services, communication services, crisis intervention, day care and child care for a child with a disability, supports and services for integrated and inclusive community activities, parent or family member support groups, peer support, sitter service or companion service, and education aids; and

“(iii) financial assistance, which may include discretionary cash subsidies, allowances, voucher or reimbursement systems, low-interest loans, or lines of credit.

“(10) INTEGRATION AND INCLUSION.—The term ‘integration and inclusion’ with respect to children with disabilities and their families means—

“(A) the use of the same community resources that are used by and available to other individuals and families;

“(B) the full and active participation in the same community activities and utilization of the same community resources as individuals without disabilities, living, learning, working, and enjoying life in regular contact with individuals without disabilities; and

“(C) having friendships and relationships with individuals and families of their own choosing.

“(11) LEAD ENTITY.—The term ‘lead entity’ means an office or entity described in section 706.

“(12) NEW COUNCIL.—The term ‘new Council’ means a council that is established by a State, and considered as the State Policy Council for Families of Children with Disabilities, under section 707(a).

“(13) SECRETARY.—The term ‘Secretary’ means the Secretary of Health and Human Services.

“(14) SERVICE COORDINATION.—The term ‘service coordination’—

"(A) means those family-centered and family-directed activities that assist and enable families to receive rights and procedural safeguards and to gain access to social, medical, legal, educational, and other supports and services; and

"(B) includes—

"(i) follow-along services that assure, through a continuing relationship between a family of a child with a disability and an individual or entity, that the changing needs of the child and family are recognized and appropriately met;

"(ii) the coordination and monitoring of services provided to children with disabilities and their families;

"(iii) the provision of information to children with disabilities and their families about the availability of services and assistance to such children and their families in obtaining appropriate services; and

"(iv) the facilitation and organization of existing social networks, and natural sources of support, and community resources and services.

"(15) STATEWIDE SYSTEM OF FAMILY SUPPORT.—The term 'statewide system of family support for families of children with disabilities' means a family-centered and family-directed, culturally competent, community-centered, comprehensive, statewide system of family support for families of children with disabilities developed and implemented by a State under this part that—

"(A) addresses the needs of all families of children with disabilities, including unserved and underserved populations; and

"(B) addresses such needs without regard to the age, type of disability, race, ethnicity, or gender of such children or the particular major life activity for which such children need the assistance.

"(16) SYSTEMS CHANGE ACTIVITIES.—The term 'systems change activities' means efforts that result in laws, regulations, policies, practices, or organizational structures—

"(A) that are family-centered and family-directed;

"(B) that facilitate and increase access to, provision of, and funding for, family support services for families of children with disabilities; and

"(C) that otherwise accomplish the purposes of this part.

"(17) UNSERVED AND UNDERSERVED POPULATIONS.—The term 'unserved and underserved populations' includes populations such as individuals from racial and ethnic minority backgrounds, economically disadvantaged individuals, individuals with limited-English proficiency, individuals from underserved geographic areas (rural or urban), and specific groups of individuals within the population of individuals with disabilities, including individuals with disabilities attributable to physical impairment, mental impairment, or a combination of physical and mental impairments.

#### "SEC. 704. GRANTS TO STATES.

"(a) IN GENERAL.—The Secretary shall make grants to States on a competitive basis, in accordance with the provisions of this part, to support systems change activities designed to assist States to develop and implement, or expand and enhance, a statewide system of family support for families of children with disabilities that accomplishes the purposes described in section 702.

"(b) AWARD PERIOD AND GRANT LIMITATION.—No grant shall be awarded for a period greater than 3 years. A State shall be eligible for not more than one grant.

"(c) AMOUNT OF GRANTS.—

"(1) GRANTS TO STATES.—

"(A) FEDERAL MATCHING SHARE.—From amounts appropriated under section 716(a), the Secretary shall pay to each State that has an application approved under section 705, for each year of the grant period, an amount that is—

"(i) equal to 75 percent of the cost of the systems change activities to be carried out by the State; and

"(ii) not less than \$200,000 and not more than \$500,000.

"(B) NON-FEDERAL SHARE.—The non-Federal share of payments under this paragraph may be in cash or in kind fairly evaluated, including planned equipment or services.

"(2) GRANTS TO TERRITORIES.—From amounts appropriated under section 716(a) for any fiscal year, the Secretary shall pay to each territory that has an application approved under section 705 not more than \$100,000.

"(3) CALCULATION OF AMOUNTS.—The Secretary shall calculate a grant amount described in paragraph (1) or (2) on the basis of the following:

"(A) The amounts available for making grants under this section.

"(B) The child population of the State or territory concerned.

"(4) DEFINITIONS.—As used in this subsection:

"(A) STATE.—The term 'State' means each of the 50 States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(B) TERRITORY.—The term 'territory' means the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Republic of Palau (upon the entry into force and effect of the Compact of Free Association between the United States and the Republic of Palau).

"(d) PRIORITY FOR PREVIOUSLY PARTICIPATING STATES.—Amounts appropriated for purposes of carrying out the provisions of this section in each of the 2 fiscal years succeeding the fiscal year in which amounts are first appropriated for such purposes shall first be made available to a State that—

"(1) received a grant under this section during the fiscal year preceding the fiscal year concerned; and

"(2) is making significant progress in accordance with section 710.

"(e) PRIORITIES FOR DISTRIBUTION.—To the extent practicable, the Secretary shall award grants to States under this section in a manner that—

"(1) is geographically equitable; and

"(2) distributes the grants among States that have differing levels of development of statewide systems of family support for families of children with disabilities.

#### "SEC. 705. APPLICATION.

"A State that desires to receive a grant under this part shall submit an application to the Secretary that contains the following information and assurances:

"(1) FAMILY-CENTERED AND FAMILY-DIRECTED APPROACH.—An assurance that the State will use funds made available under this part to accomplish the purposes described in section 702 and the goals, objectives, and family-centered outcomes described in section 709(b) by carrying out systems change activities in partnership with families and in a manner that is family-centered and family-directed.

"(2) DESIGNATION OF THE LEAD ENTITY.—Information identifying the lead entity, and evidence documenting the abilities of such entity.

"(3) STATE POLICY COUNCIL FOR FAMILIES OF CHILDREN WITH DISABILITIES.—An assurance of the following:

"(A) The State has designated or established Council that meets the criteria set forth in section 707.

"(B) The lead entity will seek and consider on a regular and ongoing basis advice from the Council regarding the development and implementation of the strategic plan under section 709, and other policies and procedures of general applicability pertaining to the provision of fam-

ily support for families of children with disabilities in the State.

"(C) The lead entity will include, in its annual progress reports, a summary of advice provided by the Council, including recommendations from the annual report of the Council and the response of the lead entity to such advice and recommendations.

"(D) The lead entity will transmit to the Council any other plans, reports, and other information required under this part.

"(4) FAMILY INVOLVEMENT.—A description of the following:

"(A) The nature and extent of the involvement of families of children with disabilities and individuals with disabilities in the development of the application.

"(B) Strategies for actively involving families of children with disabilities and individuals with disabilities in the development, implementation, and evaluation of the statewide system of family support for families of children with disabilities.

"(C) Strategies and special outreach activities that will be undertaken to ensure the active involvement of families of children with disabilities who are members of unserved and underserved populations.

"(D) Strategies for actively involving families of children with disabilities who use family support services in decisions relating to such services.

"(5) AGENCY INVOLVEMENT.—A description of the nature and extent of involvement of various State agencies or units within State agencies in the preparation of the application and the continuing role of each agency in the statewide system of family support for families of children with disabilities.

"(6) STATE RESOURCES.—A description of the State resources and other resources that are available to commit to the statewide system of family support for families of children with disabilities.

"(7) UNMET NEEDS.—A description of unmet needs for family support for families of children with disabilities within the State.

"(8) PRELIMINARY PLAN.—A preliminary plan that contains information on the program to be carried out under the grant with respect to the goals and objectives of the State for the program and the activities that the State plans to carry out under the program (including the process for appointing individuals to the Council) and that is consistent with the purposes of this part.

"(9) ACTIVITIES.—An assurance that, except for the first year of the grant, the State shall expend not less than 65 percent of the funds made available to a State under this part for grants and contracts to conduct the activities described in section 708.

"(10) LIMIT ON ADMINISTRATIVE COSTS.—An assurance that the lead entity that receives funding under this part in any fiscal year shall use not more than 5 percent of such funds in such year for administrative expenses. Such administrative expenses shall not include expenses related to the activities of the Council.

"(11) STRATEGIC PLAN.—A description of the measures that will be taken by the State to develop a strategic plan in accordance with section 709.

"(12) EVALUATION.—An assurance that the State will conduct an annual evaluation of the statewide system of family support for families of children with disabilities in accordance with section 710.

"(13) COORDINATION WITH STATE AND LOCAL COUNCILS.—An assurance that the lead entity will coordinate the activities funded through a grant made under this part with the activities carried out by other relevant councils within the State.

"(14) SUPPLEMENT OTHER FUNDS.—An assurance, with respect to amounts received under a grant, of the following:

"(A) Such grant will be used to supplement and not supplant amounts available from other sources that are expended for programs of family support for families of children with disabilities, including the provision of family support.

"(B) Such grant will not be used to pay a financial obligation for family support for families of children with disabilities that would have been paid with amounts available from other sources if amounts under such grant had not been available.

"(15) OTHER INFORMATION AND ASSURANCES.—Such other information and assurances as the Secretary may reasonably require.

#### "SEC. 706. DESIGNATION OF THE LEAD ENTITY.

"(a) DESIGNATION.—The Chief Executive Officer of a State that desires to receive a grant under section 704, shall designate the office or entity (referred to in this part as the "lead entity") responsible for—

"(1) submitting the application under section 705 on behalf of the State;

"(2) administering and supervising the use of the amounts made available under the grant;

"(3) coordinating efforts related to and supervising the preparation of the application;

"(4) coordinating the planning, development, implementation (or expansion and enhancement), and evaluation of a statewide system of family support services for families of children with disabilities among public agencies and between public agencies and private agencies, including coordinating efforts related to entering into interagency agreements; and

"(5) coordinating efforts related to the meaningful participation by families in activities carried out under a grant awarded under this part.

"(b) QUALIFICATIONS.—In designating the lead entity, the Chief Executive Officer may designate—

"(1) an office of the Chief Executive Officer;

"(2) a commission appointed by the Chief Executive Officer;

"(3) a public agency;

"(4) a council established under Federal or State law; or

"(5) another appropriate office, agency, or entity.

"(c) CAPABILITIES OF THE LEAD ENTITY.—The State shall provide, in accordance with the requirements of section 705, evidence that the lead entity has the capacity—

"(1) to promote a statewide system of family support for families of children with disabilities throughout the State;

"(2) to promote and implement systems change activities;

"(3) to maximize access to public and private funds for family support services for families of children with disabilities;

"(4) to implement effective strategies for capacity building, family and professional training, and access to and funding for family support services for families of children with disabilities across agencies;

"(5) to promote and facilitate the implementation of family support services for families of children with disabilities that are family-centered and family-directed, and flexible, and that provide families with the greatest possible decisionmaking authority and control regarding the nature and use of services and supports;

"(6) to promote leadership by families in planning, policy development, implementation, and evaluation of family support services for families of children with disabilities, and parent-professional partnerships; and

"(7) to promote and develop interagency coordination and collaboration.

#### "SEC. 707. STATE POLICY COUNCIL FOR FAMILY SUPPORT FOR FAMILIES OF CHILDREN WITH DISABILITIES.

"(a) DESIGNATION OR ESTABLISHMENT.—A State that desires to receive financial assistance

under this part shall, prior to the receipt of funds under this part, designate an existing Council, or establish a new Council, to be considered as a State Policy Council for Families of Children with Disabilities.

#### "(b) USE OF EXISTING COUNCIL.—

"(1) IN GENERAL.—To the extent that a State has an existing Council, the existing Council shall be considered in compliance with this section if the existing Council meets the requirements under paragraph (2).

"(2) REQUIREMENTS.—An existing Council shall—

"(A) include a majority of members who are family members of children with disabilities and who are children with disabilities (from age 18 to 21);

"(B) in the case in which the existing Council does not represent the full range of families and individuals described in subsection (d)(1), adopt strategies that will ensure the full participation of such families and individuals in all activities carried out by the Council; and

"(C) carry out functions and authorities that are comparable to the functions and authorities described in subsections (e) through (h).

"(3) DOCUMENTATION OF COMPLIANCE.—Any State that has an existing Council shall include in a grant application submitted under section 705 and in subsequent annual progress reports submitted to the Secretary under section 710, a description of the measures that are being taken or that are planned, to ensure that the existing Council of the State complies with this section.

#### "(c) APPOINTMENTS TO NEW COUNCIL.—

"(1) MEMBERS.—To the extent that a State establishes a new Council, members of the new Council shall be appointed by the Chief Executive Officer of the State or the appropriate official within the State responsible for making appointments in accordance with subsection (d). The appointing authority shall select members after soliciting recommendations from the State Developmental Disabilities Council, parent or family organizations, and other organizations representing the full range of disabilities covered under this part. The appointing authority shall ensure that the membership of the new Council reasonably represents the population of the State and shall establish guidelines for the terms of the members of the new Council.

"(2) CHAIRPERSON.—The new Council shall elect a member of the new Council to serve as the Chairperson of the new Council. The Chairperson shall be a family member, as described in subsection (d)(1).

"(d) COMPOSITION.—The new Council shall be composed of—

"(1) a majority of members who are—

"(A) individuals who are family members of children with disabilities, are eligible for family support, and represent the diversity of families within the State, including those families from unserved and underserved populations; and

"(B) children with disabilities, from age 18 to 21, and are representative of the demographics of the State;

"(2) members—

"(A) who are from State agencies with significant responsibility for the provision of, or payment for, family support services to families of children with disabilities, and who have sufficient authority to engage in policy planning and implementation on behalf of such agencies; and

"(B) who are from the office of the Chief Executive Officer of the State with responsibility with respect to budget and finance; and

"(3) such additional members as the appointing authority considers appropriate.

"(e) FUNCTIONS.—The new Council shall—

"(1) establish formal policies regarding the operation of the new Council;

"(2) advise and assist the lead entity in the performance of responsibilities described in sec-

tion 706(a), particularly the promotion of interagency agreements and the promotion of meaningful participation by families in all aspects of the statewide system of family support for families of children with disabilities;

"(3) advise and assist State agencies in the development of policies and procedures relating to the provision of family support for families of children with disabilities in the State;

"(4) advise and assist the lead entity in the development of all aspects of a strategic plan under section 709, including—

"(A) the mission, purpose, and principles of the statewide system of family support for families of children with disabilities;

"(B) the statement of family-centered outcomes;

"(C) the goals, objectives, and activities;

"(D) the quality improvement or quality enhancement system;

"(E) the appeals process;

"(F) the eligibility criteria to be used for all programs, projects, and activities carried out under this part;

"(G) the analysis of the extent to which family support for families of children with disabilities is defined as a benefit and not as income; and

"(H) the approach to the evaluation of the statewide system of family support for families of children with disabilities;

"(5) advise and assist the lead entity in the implementation of systems change activities;

"(6) advise and assist the lead entity in assessing family satisfaction with the statewide system of family support for families of children with disabilities;

"(7) review, analyze, and comment on the strategic plan and updates to the plan, progress reports, and annual budgets;

"(8) advise and assist the lead entity in the identification of Federal and State barriers that impede the development of a statewide system of family support for families of children with disabilities; and

"(9) prepare and submit to the Chief Executive Officer of the State, the State legislature, and to the Secretary an annual report on the status of family support services for families of children with disabilities, and make such report available to the public.

"(f) HEARINGS AND FORUMS.—The new Council is authorized to hold such hearings and forums as the new Council may determine to be necessary to carry out the duties of the new Council.

"(g) CONFLICT OF INTEREST.—No member of the new Council shall cast a vote on any matter that would provide direct financial benefit to such member or otherwise give the appearance of a conflict of interest under applicable State law.

"(g) COMPENSATION AND EXPENSES.—The new Council may, consistent with State law, use such resources to reimburse members of the new Council for reasonable and necessary expenses of attending the new Council meetings and performing Council duties (including child care and personal assistance services), and to pay compensation to a member of the new Council, if such member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing Council duties.

#### "SEC. 708. AUTHORIZED ACTIVITIES.

"(a) IN GENERAL.—A State that receives a grant under section 704 may use the funds made available through the grant to carry out systems change activities, which accomplish the purposes described in section 702, such as the following activities:

"(1) TRAINING AND TECHNICAL ASSISTANCE.—The State may support training and technical assistance activities for family members, service providers, community members, professionals,

members of the Council, students and others that will do the following:

"(A) Increase family participation, choice, and control in the provision of family support for families of children with disabilities.

"(B) Promote partnerships with families of children with disabilities at all levels of the service system.

"(C) Develop or strengthen family-centered and family-directed approaches to services, including service coordination services, service planning services, and respite care services.

"(D) Assist families of children with disabilities in accessing natural and community supports and in obtaining benefits and services.

"(2) INTERAGENCY COORDINATION.—The State may support activities that conduct the following:

"(A) Identification and coordination of Federal and State policies, resources, and services, relating to the provision of family support services for families of children with disabilities, including entering into interagency agreements.

"(B) Interagency work groups to enhance public funding options and coordinate access to funding for family support services for families of children with disabilities, with special attention to the issues of family involvement in the identification, planning, use, delivery, and evaluation of such services.

"(C) Documentation and dissemination of information about interagency activities that promote coordination with respect to family support services for families of children with disabilities, including evidence of increased participation of State and local health, maternal and child health, social service, mental health, mental retardation and developmental disabilities, child protection, education, early intervention, developmental disabilities councils, agencies, and departments.

"(3) LOCAL OR REGIONAL COUNCILS.—The State may support the development or enhancement of local or regional councils to review the status of family support for families of children with disabilities in the local or regional area, to advise and assist with the planning, development, implementation, and evaluation of family support for families of children with disabilities in such local or regional area, and to provide recommendations to the State regarding improvements and plans.

"(4) OUTREACH.—The State may conduct outreach activities to locate families who are eligible for family support for families of children with disabilities and to identify groups who are unserved or underserved. Such activities may involve the creation or maintenance of, support of, or provision of, assistance to statewide and community parent organizations, and organizations that provide family support to families of children with disabilities.

"(5) POLICY STUDIES.—The State may support policy studies that relate to the development and implementation, or expansion and enhancement, of a statewide system of family support for families of children with disabilities. Such studies may address issues regarding eligibility and access to services.

"(6) HEARINGS AND FORUMS.—The State may conduct hearings and forums to solicit input from families of children with disabilities regarding family support programs, policies, and plans for such families. Such hearings and forums may be conducted in collaboration with other statewide councils.

"(7) PUBLIC AWARENESS AND EDUCATION.—The State may develop and disseminate information relating to family support for families of children with disabilities designed to provide information to such families, parent groups and organizations, public and private agencies that are in contact with children with disabilities and families of such children, students, policy-

makers, and the public. Such information may relate to the nature, cost, and availability of, and accessibility to, family support for families of children with disabilities, the impact of family support for families of children with disabilities on other benefits, and the efficacy of family support for families of children with disabilities with respect to enhancing the quality of family life.

"(8) NEEDS ASSESSMENT.—The State may conduct a needs assessment, which may, in part, be based on existing State data.

"(9) PROGRAM DATA.—The State may support the compilation and evaluation of appropriate data related to the statewide system of family support for families of children with disabilities.

"(10) PILOT DEMONSTRATION PROJECTS.—The State may support pilot demonstration projects to demonstrate new approaches to the provision of family support for families of children with disabilities. Such projects may include the demonstration of family-centered and family-directed service coordination, approaches to improve access to services, including independent service coordination, peer support networks, and voucher programs.

"(11) OTHER ACTIVITIES.—The State may support other systems change activities that accomplish the purposes described in section 702.

"(b) SPECIAL RULE.—In carrying out activities authorized under this part, a State shall ensure that such programs and activities address the needs of families who are economically disadvantaged.

#### "SEC. 709. STRATEGIC PLAN.

"(a) IN GENERAL.—Not later than 6 months after the date on which assistance is received by a State under this part, the lead entity of the State, in conjunction with the Council, shall prepare and submit to the Secretary a strategic plan designed to achieve the purposes and policy of this part.

"(b) CONTENTS.—The strategic plan shall include—

"(1) a statement of the mission, purpose, and principles of the statewide system of family support for families of children with disabilities in the State;

"(2) a statement of family-centered outcomes to be achieved by the statewide system of family support for families of children with disabilities;

"(3) specific goals and objectives for developing and implementing, or expanding and improving, the system for providing family support services for families of children with disabilities, and for achieving the family-centered outcomes;

"(4) systemic approaches for accomplishing the objectives and achieving the family-centered outcomes, including interagency coordination and cooperation, that builds upon state-of-the-art practices and research findings;

"(5) a description of the specific programs, projects, and activities funded under this part and the manner in which the programs, projects, and activities accomplish the objectives and achieve the family-centered outcomes;

"(6) a description of an ongoing quality improvement or quality enhancement system, which utilizes information from ongoing measurements of the extent to which family-centered outcomes are achieved, to improve the system;

"(7) a description of an appeals process that will be used in resolving any disputes families of children with disabilities may have regarding the determination of eligibility or the provision of family support services to the family or to the child with a disability;

"(8) a description of the eligibility criteria to be used to carry out programs, projects, and activities under this part that includes all eligible families;

"(9) an analysis of the extent to which family support for a family of a child with a disability is defined as a benefit and not as income; and

"(10) a description of the plan to conduct an annual evaluation of the statewide system of family support for families of children with disabilities, in conjunction with the Council, to improve such statewide system and to document progress as required by section 710.

"(c) PERIOD AND UPDATES.—The strategic plan shall cover the period of the grant and shall be reviewed and updated on an annual basis to reflect actual experience and family satisfaction information over the preceding year and input from the Council, families of children with disabilities, and other interested parties.

"(d) RECOMMENDATIONS.—Prior to developing the strategic plan, the State shall solicit input and recommendations from interested members of the public, either by holding public hearings or through an alternative method or methods determined by the lead entity in consultation with the Council. The lead entity shall also obtain the comments and recommendations of the Council. The lead entity, in conjunction with the Council, shall consider the recommendations and attempt to reach a consensus with respect to such recommendations. If the lead entity and the Council are unable to reach a consensus, the lead entity shall include a written explanation of the reason a consensus was not reached in the strategic plan.

"(e) COMMENT.—The State shall develop a procedure for ensuring ongoing comment from the Council.

"(f) DISSEMINATION.—The State shall widely disseminate the strategic plan to families of children with disabilities, parent organizations, and other interested persons.

"(g) CONSTRUCTION.—Nothing in this section shall be construed to prevent a State from using an existing statewide strategic plan or parts thereof to meet the requirements of this section as long as such plan or the applicable parts thereof are comparable to the specifications of this section.

#### "SEC. 710. PROGRESS CRITERIA AND REPORTS.

"(a) GUIDELINES.—The Secretary shall develop guidelines to be used in assessing the extent to which a State that received a grant under section 704 is making significant progress in developing and implementing, or expanding and enhancing, a statewide system of family support for families of children with disabilities consistent with the purposes of this part.

"(b) PROGRESS REPORTS.—A State that receives a grant under section 704 shall submit annually to the Secretary a report that documents progress in developing and implementing, or expanding and enhancing, a statewide system of family support for families of children with disabilities consistent with this part. Such report shall include—

"(1) the results of the annual evaluation of the statewide system of family support for families of children with disabilities;

"(2) a description of the unanticipated problems with the achievement of the goals, objectives, and family-centered outcomes described in the application or strategic plan and the measures the State has taken to rectify such problems;

"(3) for the annual progress report concerning the first year of the grant period, the strategic plan developed by the State during the first year; and

"(4) for the annual progress report concerning subsequent years of the grant period, the updated strategic plan.

#### "SEC. 711. ADMINISTRATIVE PROVISIONS.

"(a) EVALUATION OF GRANT APPLICATIONS.—

"(1) PANELS.—The Secretary shall convene panels of experts who are competent, by virtue of their training or experience, to evaluate grant applications under this part.

"(2) COMPOSITION OF PANELS.—Panels shall be composed of a majority of family members of

children with disabilities and individuals with disabilities, and may include service providers, State administrative personnel, and professionals. Panels shall include a majority of individuals who are not Federal employees.

"(3) EXPENSES AND FEES OF THE PANEL.—A member of the Panel who is not a Federal employee shall receive travel, per diem and consultant fees not to exceed the rate provided to other consultants used by the Secretary. The Secretary may use funds available under section 716 to pay expenses and fees of a member of a Panel who is not a Federal employee.

"(b) PROVISION OF INFORMATION.—To assist the Secretary in carrying out the responsibilities of the Secretary under this section, the Secretary may require States to provide relevant information, including recommendations and relevant reports of the Council.

"(c) APPEALS.—The Secretary shall establish appeals procedures for States that are found in noncompliance with the provisions of this part as the result of failure to supply information required under section 705 or 710. The Secretary shall take into consideration the comments of the Council.

"(d) EFFECT ON OTHER ASSISTANCE.—This part may not be construed as authorizing a Federal or State agency to reduce medical or other assistance available, or to alter eligibility, under any Federal law.

"(e) UNOBLIGATED FUNDS.—Any amount paid to a State for a fiscal year and remaining unobligated at the end of such year shall remain available to such State for the next fiscal year for the purposes for which such amount was paid.

#### "SEC. 712. TECHNICAL ASSISTANCE.

"(a) IN GENERAL.—The Secretary shall make grants, or enter into contracts or cooperative agreements, with appropriate public or private agencies and organizations, including institutions of higher education, with documented experience, expertise, and capacity, for the purpose of providing technical assistance and information with respect to the development and implementation, or expansion and enhancement, of a statewide system of family support for families of children with disabilities.

"(b) PURPOSE.—With respect to States receiving assistance under this part, the technical assistance and information described under subsection (a) shall be provided to the State agency designated as the lead entity, the Council, family members of children with disabilities, organizations, service providers, and policymakers involved with children with disabilities and their families. Such technical assistance shall also be available to States that do not receive assistance under this part. Such technical assistance and information shall—

"(1) facilitate effective systems change activities;

"(2) promote effective approaches to the development and implementation, or expansion and enhancement of, the statewide systems of family support for families of children with disabilities that increase access to, funding for, and awareness of family support for families of children with disabilities;

"(3) promote partnerships with families at all levels of the service system;

"(4) foster awareness and understanding of Federal, State, and local laws, regulations, policies, practices, procedures, and organizational structures, that facilitate, and overcome barriers to, funding for, and access to family support for families of children with disabilities;

"(5) foster the development and replication of effective approaches to strategic plan development, interagency coordination, training, outreach to underserved groups, and public awareness activities;

"(6) facilitate service delivery capacity, training, and the improvement of data collection and evaluation systems;

"(7) promote effective approaches to the development of family-centered and family-directed services, including approaches to the development and measurement of family-centered outcomes described in section 709(b)(2), and the assessment of family satisfaction; and

"(8) coordinate and facilitate an annual meeting of the chairpersons of the Councils.

"(c) REQUEST FOR TECHNICAL ASSISTANCE.—A request for technical assistance by a lead entity in a State receiving assistance under this part shall be made in conjunction with the Council.

"(d) REPORTS TO THE SECRETARY.—An entity providing the technical assistance under this section shall submit periodic reports to the Secretary regarding Federal policies and procedures identified within the States that facilitate or impede the delivery of family support to families of children with disabilities. The report shall include recommendations to the Secretary regarding the delivery of services, coordination with other programs, and integration of the policies and principles described in section 702 in other Federal legislation.

#### "SEC. 713. EVALUATION.

"(a) IN GENERAL.—The Secretary shall make grants, or enter into contracts or cooperative agreements, with appropriate public or private agencies and organizations, including institutions of higher education, with documented experience, expertise, and capacity for the purpose of conducting a national evaluation of the program of grants to States authorized by this part.

"(b) PURPOSE.—The purpose of an evaluation under subsection (a) shall be to assess the status and effects of State efforts to develop and implement, or expand and enhance, statewide systems of family support for families of children with disabilities in a manner consistent with the provisions of this part, particularly in terms of the impact of such efforts on families of children with disabilities, and to recommend amendments to this part that are necessary to assist States to fully accomplish the purposes of this part. The Secretary or recipient of assistance under this section shall work with the States to consider and develop an information system designed to report and compile, from information provided by the States, including the Council, a qualitative and quantitative description of the impact of the program of grants to States authorized by this part on—

"(1) families of children with disabilities, including families from ethnic and racial minority backgrounds;

"(2) access to and funding for family support for families of children with disabilities; and

"(3) the involvement of families at all levels of the service system.

"(c) REPORT TO CONGRESS.—Not later than 2½ years after the date of enactment of this part, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the results of the evaluation conducted under this section.

"(d) CONFLICT OF INTEREST.—The Secretary shall assure that a recipient of a grant, contract, or cooperative agreement under this section is independent from, and free from, any financial or personal relationships with the recipient of a grant, contract, or cooperative agreement selected to provide technical assistance under section 712.

#### "SEC. 714. PROJECTS OF NATIONAL SIGNIFICANCE.

"(a) STUDY BY THE SECRETARY.—The Secretary shall review Federal programs to determine the extent to which such programs facilitate or impede access to, provision of, and funding for family support for families of children with disabilities, consistent with the policies described in section 702.

"(b) DEMONSTRATION AND INNOVATION PROJECTS.—The Secretary shall make grants or

enter into contracts for projects of national significance to support the development of national and State policies and practices related to the development and implementation, or expansion and enhancement, of family-centered and family-directed systems of family support for families of children with disabilities.

#### "SEC. 715. CONSTRUCTION.

"Notwithstanding any other provision of this title, nothing in parts A through H of this title shall be construed to apply to this part.

#### "SEC. 716. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this part, \$10,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 and 1997.

#### "(b) RESERVATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall reserve for each fiscal year 10 percent, or \$600,000 (whichever is greater), of the amount appropriated pursuant to the authority of subsection (a) to carry out—

"(A) section 712, with respect to the provision of technical assistance and information to States;

"(B) section 713, with respect to the conduct of the evaluations;

"(C) section 711(a), with respect to the evaluation of grant applications; and

"(D) section 714, with respect to the conduct of projects of national significance.

"(2) SPECIAL RULE.—The Secretary shall only use funds reserved under paragraph (1) for a fiscal year to carry out section 714 for such year if the amount of funds reserved under such paragraph for such fiscal year is \$700,000 or greater."

### PART B—EDUCATION FOR HOMELESS CHILDREN AND YOUTH

#### SEC. 321. AMENDMENTS TO TABLE OF CONTENTS.

The table of contents in section 101(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 note) is amended by striking subtitles A and B of title VII and inserting the following:

"Subtitle A—Adult Education for the Homeless

"Sec. 701. State literacy initiatives.

"Subtitle B—Education for Homeless Children and Youth

"Sec. 721. Statement of policy.

"Sec. 722. Grants for State and local activities for the education of homeless children and youth.

"Sec. 723. Local educational agency grants for the education of homeless children and youth.

"Sec. 724. Secretarial responsibilities.

"Sec. 725. Definitions.

"Sec. 726. Authorization of appropriations."

#### SEC. 322. ADULT EDUCATION FOR THE HOMELESS.

Subtitle A of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11421 et seq.) is amended to read as follows:

"Subtitle A—Adult Education for the Homeless

#### "SEC. 701. STATE LITERACY INITIATIVES.

"(a) GENERAL AUTHORITY.—

"(1) GRANTS.—The Secretary of Education is authorized to make grants to State educational agencies to enable each such agency to implement, either directly or through contracts and grants, a program of literacy training and academic remediation for adult homeless individuals within the State, which program shall—

"(A) include outreach activities; and

"(B) be coordinated with other agencies or organizations, such as community-based organizations, nonprofit literacy-action organizations, and recipients of funds under the Adult Education Act, title II of the Job Training Partnership Act, the Youth Fair Chance program under

part H of title IV of the Job Training Partnership Act, the Volunteers in Service to America program under part A of title I of the Domestic Volunteer Service Act of 1973, part C of this title, or the Job Opportunity and Basic Skills program under part F of title IV of the Social Security Act.

"(2) ESTIMATES AND AMOUNTS.—The Secretary of Education, in awarding grants under this section, shall give special consideration to the estimates submitted in the application submitted under subsection (b) and make such awards in whatever amounts such Secretary determines will best serve the purposes of this section.

"(b) APPLICATION.—Each State educational agency desiring to receive a grant under this section shall submit to the Secretary of Education an application at such time, in such manner, and containing such information as the Secretary may reasonably require. Each such application shall include an estimate of the number of homeless individuals in the State and the number of such individuals expected to be served.

"(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out the adult literacy training and academic remediation programs authorized by this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1995 through 1999.

"(d) DEFINITION.—As used in this section, the term 'State' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and Palau (until the effective date of the Compact of Free Association with the Government of Palau)."

#### SEC. 323. EDUCATION FOR HOMELESS CHILDREN AND YOUTH.

Subtitle B of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11431 et seq.) is amended to read as follows:

##### "Subtitle B—Education for Homeless Children and Youth

###### "SEC. 721. STATEMENT OF POLICY.

"It is the policy of the Congress that—

"(1) each State educational agency shall ensure that each child of a homeless individual and each homeless youth has equal access to the same free, appropriate public education, including a public preschool education, as provided to other children and youth;

"(2) in any State that has a compulsory residency requirement as a component of the State's compulsory school attendance laws or other laws, regulations, practices, or policies that may act as a barrier to the enrollment, attendance, or success in school of homeless children and youth, the State will review and undertake steps to revise such laws, regulations, practices, or policies to ensure that homeless children and youth are afforded the same free, appropriate public education as provided to other children and youth;

"(3) homelessness alone should not be sufficient reason to separate students from the mainstream school environment; and

"(4) homeless children and youth should have access to the education and other services that such children and youth need to ensure that such children and youth have an opportunity to meet the same challenging State student performance standards to which all students are held.

###### "SEC. 722. GRANTS FOR STATE AND LOCAL ACTIVITIES FOR THE EDUCATION OF HOMELESS CHILDREN AND YOUTH.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to make grants to States in accordance with the provisions of this section to enable such States to carry out the activities described in subsections (d), (e), (f), and (g).

"(b) APPLICATION.—No State may receive a grant under this section unless the State educational agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(c) ALLOCATION AND RESERVATIONS.—

"(1) IN GENERAL.—Subject to paragraph (2) and section 724(c), from the amounts appropriated for each fiscal year under section 726, the Secretary is authorized to allot to each State an amount that bears the same ratio to the amount appropriated for such year under section 726 as the amount allocated under section 1122 of the Elementary and Secondary Education Act of 1965 to the State for that year bears to the total amount allocated under section 1122 to all States for that year, except that no State shall receive less than \$100,000.

"(2) RESERVATION.—(A) The Secretary is authorized to reserve 0.1 percent of the amount appropriated for each fiscal year under section 726 to be allocated by the Secretary among the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and Palau (until the effective date of the Compact of Free Association with the Government of Palau), according to their respective need for assistance under this subtitle, as determined by the Secretary.

"(B)(i) The Secretary is authorized to transfer one percent of the amount appropriated for each fiscal year under section 726 to the Department of the Interior for programs for Indian students served by schools funded by the Secretary of the Interior, as determined under the Indian Self-Determination and Education Assistance Act, that are consistent with the purposes of this Act.

"(ii) The Secretary and the Secretary of the Interior shall enter into an agreement, consistent with the requirements of this part, for the distribution and use of the funds described in clause (i) under terms that the Secretary determines best meet the purposes of the programs described in such clause. Such agreement shall set forth the plans of the Secretary of the Interior for the use of the amounts transferred, including appropriate goals, objectives, and milestones.

"(3) DEFINITION.—As used in this subsection, the term 'State' shall not include the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or Palau.

"(d) ACTIVITIES.—Grants under this section shall be used—

"(1) to carry out the policies set forth in section 721 in the State;

"(2) to provide activities for, and services to, homeless children, including preschool-aged children, and homeless youth that enable such children and youth to enroll in, attend, and succeed in school, or, if appropriate, in preschool programs;

"(3) to establish or designate an Office of Coordinator of Education of Homeless Children and Youth in the State educational agency in accordance with subsection (f);

"(4) to prepare and carry out the State plan described in subsection (g); and

"(5) to develop and implement professional development programs for school personnel to heighten their awareness of, and capacity to respond to, specific problems in the education of homeless children and youth.

"(e) STATE AND LOCAL GRANTS.—

"(1) IN GENERAL.—(A) Subject to subparagraph (B), if the amount allotted to the State educational agency for any fiscal year under this subtitle exceeds the amount such agency received for fiscal year 1990 under this subtitle, such agency shall provide grants to local educational agencies for purposes of section 723.

"(B) The State educational agency may reserve not more than the greater of 5 percent of the amount such agency receives under this subtitle for any fiscal year, or the amount such agency received under this subtitle for fiscal year 1990, to conduct activities under subsection (f) directly or through grants or contracts.

"(2) SPECIAL RULE.—If the amount allotted to a State educational agency for any fiscal year under this subtitle is less than the amount such agency received for fiscal year 1990 under this subtitle, such agency, at such agency's discretion, may provide grants to local educational agencies in accordance with section 723 or may conduct activities under subsection (f) directly or through grants or contracts.

"(f) FUNCTIONS OF THE OFFICE OF COORDINATOR.—The Coordinator of Education of Homeless Children and Youth established in each State shall—

"(1) estimate the number of homeless children and youth in the State and the number of such children and youth served with assistance provided under the grants or contracts under this subtitle;

"(2) gather, to the extent possible, reliable, valid, and comprehensive information on the nature and extent of the problems homeless children and youth have in gaining access to public preschool programs and to public elementary and secondary schools, the difficulties in identifying the special needs of such children and youth, any progress made by the State educational agency and local educational agencies in the State in addressing such problems and difficulties, and the success of the program under this subtitle in allowing homeless children and youth to enroll in, attend, and succeed in, school;

"(3) develop and carry out the State plan described in subsection (g);

"(4) prepare and submit to the Secretary not later than October 1, 1997, and on October 1 of every third year thereafter, a report on the information gathered pursuant to paragraphs (1) and (2) and such additional information as the Secretary may require to carry out the Secretary's responsibilities under this subtitle;

"(5) facilitate coordination between the State educational agency, the State social services agency, and other agencies providing services to homeless children and youth, including homeless children and youth who are preschool age, and families of such children and youth; and

"(6) develop relationships and coordinate with other relevant education, child development, or preschool programs and providers of services to homeless children, homeless families, and runaway and homeless youth (including domestic violence agencies, shelter operators, transitional housing facilities, runaway and homeless youth centers, and transitional living programs for homeless youth), to improve the provision of comprehensive services to homeless children and youth and their families.

"(g) STATE PLAN.—

"(1) IN GENERAL.—Each State shall submit to the Secretary a plan to provide for the education of homeless children and youth within the State, which plan shall describe how such children and youth are or will be given the opportunity to meet the same challenging State student performance standards all students are expected to meet, shall describe the procedures the State educational agency will use to identify such children and youth in the State and to assess their special needs, and shall—

"(A) describe procedures for the prompt resolution of disputes regarding the educational placement of homeless children and youth;

"(B) describe programs for school personnel (including principals, attendance officers, teachers and enrollment personnel), to heighten the awareness of such personnel of the specific needs of runaway and homeless youth;

"(C) describe procedures that ensure that homeless children and youth who meet the relevant eligibility criteria are able to participate in Federal, State, or local food programs;

"(D) describe procedures that ensure that—

"(i) homeless children have equal access to the same public preschool programs, administered by the State agency, as provided to other children; and

"(ii) homeless children and youth who meet the relevant eligibility criteria are able to participate in Federal, State, or local before- and after-school care programs;

"(E) address problems set forth in the report provided to the Secretary under subsection (f)(4);

"(F) address other problems with respect to the education of homeless children and youth, including problems caused by—

"(i) transportation issues; and

"(ii) enrollment delays that are caused by—

"(I) immunization requirements;

"(II) residency requirements;

"(III) lack of birth certificates, school records, or other documentation; or

"(IV) guardianship issues;

"(G) demonstrate that the State educational agency and local educational agencies in the State have developed, and will review and revise, policies to remove barriers to the enrollment and retention of homeless children and youth in schools in the State; and

"(H) contain an assurance that the State educational agency and local educational agencies in the State will adopt policies and practices to ensure that homeless children and youth are not isolated or stigmatized.

"(2) COMPLIANCE.—Each plan adopted under this subsection shall also show how the State will ensure that local educational agencies in the State will comply with the requirements of paragraphs (3) through (9).

"(3) LOCAL EDUCATIONAL AGENCY REQUIREMENTS.—(A) The local educational agency of each homeless child and youth to be assisted under this subtitle shall, according to the child's or youth's best interest, either—

"(i) continue the child's or youth's education in the school of origin—

"(I) for the remainder of the academic year; or

"(II) in any case in which a family becomes homeless between academic years, for the following academic year; or

"(ii) enroll the child or youth in any school that nonhomeless students who live in the attendance area in which the child or youth is actually living are eligible to attend.

"(B) In determining the best interests of the child or youth under subparagraph (A), the local educational agency shall comply, to the extent feasible, with the request made by a parent or guardian regarding school selection.

"(C) For purposes of this paragraph, the term 'school of origin' means the school that the child or youth attended when permanently housed, or the school in which the child or youth was last enrolled.

"(D) The choice regarding placement shall be made regardless of whether the child or youth lives with the homeless parents or has been temporarily placed elsewhere by the parents.

"(4) COMPARABLE SERVICES.—Each homeless child or youth to be assisted under this subtitle shall be provided services comparable to services offered to other students in the school selected according to the provisions of paragraph (3), including—

"(A) transportation services;

"(B) educational services for which the child or youth meets the eligibility criteria, such as services provided under title I of the Elementary and Secondary Education Act of 1965 or similar State or local programs, educational programs

for children with disabilities, and educational programs for students with limited-English proficiency;

"(C) programs in vocational education;

"(D) programs for gifted and talented students; and

"(E) school meals programs.

"(5) RECORDS.—Any record ordinarily kept by the school, including immunization records, academic records, birth certificates, guardianship records, and evaluations for special services or programs, of each homeless child or youth shall be maintained—

"(A) so that the records are available, in a timely fashion, when a child or youth enters a new school district; and

"(B) in a manner consistent with section 444 of the General Education Provisions Act.

"(6) COORDINATION.—Each local educational agency serving homeless children and youth that receives assistance under this subtitle shall coordinate with local social services agencies and other agencies or programs providing services to such children or youth and their families, including services and programs funded under the Runaway and Homeless Youth Act.

"(7) LIAISON.—(A) Each local educational agency that receives assistance under this subtitle shall designate a homelessness liaison to ensure that—

"(i) homeless children and youth enroll and succeed in the schools of that agency; and

"(ii) homeless families, children, and youth receive educational services for which such families, children, and youth are eligible, including Head Start and Even Start programs and preschool programs administered by the local educational agency, and referrals to health care services, dental services, mental health services, and other appropriate services.

"(B) State coordinators and local educational agencies shall inform school personnel, service providers, and advocates working with homeless families of the duties of the liaisons.

"(8) REVIEW AND REVISIONS.—Each State educational agency and local educational agency that receives assistance under this subtitle shall review and revise any policies that may act as barriers to the enrollment of homeless children and youth in schools selected in accordance with paragraph (3). In reviewing and revising such policies, consideration shall be given to issues concerning transportation, immunization, residency, birth certificates, school records, and other documentation, and guardianship. Special attention shall be given to ensuring the enrollment and attendance of homeless children and youth who are not currently attending school.

"(9) COORDINATION.—Where applicable, each State and local educational agency that receives assistance under this subtitle shall coordinate with State and local housing agencies responsible for developing the comprehensive housing affordability strategy described in section 105 of the Cranston-Gonzalez National Affordable Housing Act to minimize educational disruption for children who become homeless.

**"SEC. 723. LOCAL EDUCATIONAL AGENCY GRANTS FOR THE EDUCATION OF HOMELESS CHILDREN AND YOUTH.**

"(a) GENERAL AUTHORITY.—

"(1) IN GENERAL.—The State educational agency shall, in accordance with section 722(e) and from amounts made available to such agency under section 726, make grants to local educational agencies for the purpose of facilitating the enrollment, attendance, and success in school of homeless children and youth.

"(2) SERVICES.—Unless otherwise specified, services under paragraph (1) may be provided through programs on school grounds or at other facilities. Where such services are provided through programs to homeless students on school grounds, schools may provide services to

other children and youth who are determined by the local educational agency to be at risk of failing in, or dropping out of, schools, in the same setting or classroom. To the maximum extent practicable, such services shall be provided through existing programs and mechanisms that integrate homeless individuals with nonhomeless individuals.

"(3) REQUIREMENT.—Services provided under this section shall not replace the regular academic program and shall be designed to expand upon or improve services provided as part of the school's regular academic program.

"(b) APPLICATION.—A local educational agency that desires to receive a grant under this section shall submit an application to the State educational agency at such time, in such manner, and containing or accompanied by such information as the State educational agency may reasonably require according to guidelines issued by the Secretary. Each such application shall include—

"(1) a description of the services and programs for which assistance is sought and the problems to be addressed through the provision of such services and programs;

"(2) an assurance that the local educational agency's combined fiscal effort per student or the aggregate expenditures of that agency and the State with respect to the provision of free public education by such agency for the fiscal year preceding the fiscal year for which the determination is made was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second fiscal year preceding the fiscal year for which the determination is made;

"(3) an assurance that the applicant complies with, or will use requested funds to come into compliance with, paragraphs (3) through (9) of section 722(g); and

"(4) a description of policies and procedures that the agency will implement to ensure that activities carried out by the agency will not isolate or stigmatize homeless children and youth.

"(c) AWARDS.—

"(1) IN GENERAL.—The State educational agency shall, in accordance with section 722(g) and from amounts made available to such agency under section 726, award grants under this section to local educational agencies submitting an application under subsection (b) on the basis of the need of such agencies.

"(2) NEED.—In determining need under paragraph (1), the State educational agency may consider the number of homeless children and youth enrolled in preschool, elementary, and secondary schools within the area served by the agency, and shall consider the needs of such children and youth and the ability of the agency to meet such needs. Such agency may also consider—

"(A) the extent to which the proposed use of funds would facilitate the enrollment, retention, and educational success of homeless children and youth;

"(B) the extent to which the application reflects coordination with other local and State agencies that serve homeless children and youth, as well as the State plan required by section 722(g);

"(C) the extent to which the applicant exhibits in the application and in current practice a commitment to education for all homeless children and youth; and

"(D) such other criteria as the agency determines appropriate.

"(3) DURATION OF GRANTS.—Grants awarded under this section shall be for terms not to exceed three years.

"(d) AUTHORIZED ACTIVITIES.—A local educational agency may use funds awarded under this section for activities to carry out the purpose of this subtitle, including—

"(1) the provision of tutoring, supplemental instruction, and enriched educational services that are linked to the achievement of the same challenging State content standards and challenging State student performance standards the State establishes for other children or youth;

"(2) the provision of expedited evaluations of the strengths and needs of homeless children and youth, including needs and eligibility for programs and services (such as educational programs for gifted and talented students, children with disabilities, and students with limited-English proficiency, services provided under title I of the Elementary and Secondary Education Act of 1965 or similar State or local programs, programs in vocational education, and school meals programs);

"(3) professional development and other activities for educators and pupil services personnel that are designed to heighten the understanding and sensitivity of such personnel to the needs of homeless children and youth, the rights of such children and youth under this Act, and the specific educational needs of runaway and homeless youth;

"(4) the provision of referral services to homeless children and youth for medical, dental, mental, and other health services;

"(5) the provision of assistance to defray the excess cost of transportation for students pursuant to section 722(g)(4), not otherwise provided through Federal, State, or local funding, where necessary to enable students to attend the school selected under section 722(g)(3);

"(6) the provision of developmentally appropriate early childhood education programs, not otherwise provided through Federal, State, or local funding, for preschool-aged children;

"(7) the provision of before- and after-school, mentoring, and summer programs for homeless children and youth in which a teacher or other qualified individual provides tutoring, homework assistance, and supervision of educational activities;

"(8) where necessary, the payment of fees and other costs associated with tracking, obtaining, and transferring records necessary to enroll homeless children and youth in school, including birth certificates, immunization records, academic records, guardianship records, and evaluations for special programs or services;

"(9) the provision of education and training to the parents of homeless children and youth about the rights of, and resources available to, such children and youth;

"(10) the development of coordination between schools and agencies providing services to homeless children and youth, including programs funded under the Runaway and Homeless Youth Act;

"(11) the provision of pupil services (including violence prevention counseling) and referrals for such services;

"(12) activities to address the particular needs of homeless children and youth that may arise from domestic violence;

"(13) the adaptation of space and purchase of supplies for nonschool facilities made available under subsection (a)(2) to provide services under this subsection;

"(14) the provision of school supplies, including those supplies to be distributed at shelters or temporary housing facilities, or other appropriate locations; and

"(15) the provision of other extraordinary or emergency assistance needed to enable homeless children and youth to attend school.

#### SEC. 724. SECRETARIAL RESPONSIBILITIES.

"(a) REVIEW OF PLANS.—In reviewing the State plans submitted by the State educational agencies under section 722(g), the Secretary shall use a peer review process and shall evaluate whether State laws, policies, and practices described in such plans adequately address the

problems of homeless children and youth relating to access to education and placement as described in such plans.

"(b) TECHNICAL ASSISTANCE.—The Secretary shall provide support and technical assistance to the State educational agencies to assist such agencies to carry out their responsibilities under this subtitle.

"(c) EVALUATION AND DISSEMINATION.—The Secretary shall conduct evaluation and dissemination activities of programs designed to meet the educational needs of homeless elementary and secondary school students, and may use funds appropriated under section 726 to conduct such activities.

"(d) SUBMISSION AND DISTRIBUTION.—The Secretary shall require applications for grants under this subtitle to be submitted to the Secretary not later than the expiration of the 60-day period beginning on the date that funds are available for purposes of making such grants and shall make such grants not later than the expiration of the 120-day period beginning on such date.

"(e) DETERMINATION BY SECRETARY.—The Secretary, based on the information received from the States and information gathered by the Secretary under subsection (d), shall determine the extent to which State educational agencies are ensuring that each homeless child and homeless youth has access to a free appropriate public education as described in section 721(1).

"(f) REPORTS.—The Secretary shall prepare and submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate on the programs and activities authorized by this subtitle by December 31, 1997, and every third year thereafter.

#### SEC. 725. DEFINITIONS.

"For the purpose of this subtitle, unless otherwise stated—

"(1) the term 'Secretary' means the Secretary of Education; and

"(2) the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

#### SEC. 726. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this subtitle, there are authorized to be appropriated \$30,000,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996, 1997, 1998, and 1999."

### PART C—REPEAL OF IMPACT AID STATUTES

#### SEC. 331. REPEAL OF IMPACT AID STATUTES.

(a) PUBLIC LAW 81-815.—The Act entitled "An Act relating to the construction of school facilities in areas affected by Federal activities, and for other purposes", approved September 23, 1950 (64 Stat. 967; 20 U.S.C. 631 et seq.) is repealed.

(b) PUBLIC LAW 81-874.—The Act entitled "An Act to provide assistance for local educational agencies in areas affected by Federal activities, and for other purposes", approved September 30, 1950 (64 Stat. 1100; 20 U.S.C. 236 et seq.) is repealed.

### PART D—AMENDMENTS TO THE ADULT EDUCATION ACT

#### SEC. 335. AMENDMENTS TO ADULT EDUCATION ACT.

(a) STATE PLAN.—Paragraph (1) of section 342(c) of the Adult Education Act (20 U.S.C. 1206a(c)(1)) is amended by inserting "Even Start," after "1963."

(b) AUTHORIZATION OF APPROPRIATIONS.—Subsection (n) of section 384 of the Adult Education Act (20 U.S.C. 1213c(n)) is amended by striking "and 1995" and inserting "1995, and 1996".

### PART E—HIGHER EDUCATION

#### SEC. 351. HIGHER EDUCATION AMENDMENTS TO THE CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT.

(a) AMENDMENT.—The Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.) is amended—

(1) in paragraph (2) of section 232(d)—

(A) by inserting "notwithstanding section 427(b)(2) of the Higher Education Amendments of 1992," before "has"; and

(B) by inserting "as such section was in effect on July 22, 1992" before the semicolon; and

(2) in subparagraph (B) of section 404(a)(4)(B)—

(A) by inserting "notwithstanding section 427(b)(2) of the Higher Education Amendments of 1992," before "has"; and

(B) by inserting "as such section was in effect on July 22, 1992" before the period.

(b) EFFECTIVE DATE.—Subsection (a) and the amendments made by subsection (a) shall take effect on the date of enactment of this Act, except that a State that, prior to such date, distributed funds under section 232 of the Carl D. Perkins Vocational and Applied Technology Education Act from funds appropriated for fiscal year 1994 for such program to proprietary institutions of higher education, as such term is defined in section 481(b) of the Higher Education Act of 1965, may continue to distribute such funds to such institutions until July 1, 1995.

#### SEC. 352. TECHNICAL AMENDMENT TO THE SECOND MORRILL ACT.

Section 5 of the Act of August 30, 1890 (26 Stat. 417, chapter 841; 7 U.S.C. 326a) (commonly known as the "Second Morrill Act") is amended by striking "and the Trust Territory of the Pacific Islands or its successor governments" and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau".

#### SEC. 353. DEFINITIONS FOR PART A OF TITLE III.

Paragraph (1) of section 312(b) of the Higher Education Act of 1965 (20 U.S.C. 1058(b)(1)) is amended—

(1) by amending subparagraph (C) to read as follows:

"(C) which is—

"(i) legally authorized to provide, and provides within the State, an educational program for which such institution awards a bachelor's degree;

"(ii) a junior or community college; or

"(iii) the College of the Marshall Islands, the College of Micronesia/Federated States of Micronesia, and Palau Community College;"

(2) in subparagraph (D), by striking "and" after the semicolon; and

(3) by adding after subparagraph (E) the following new subparagraph:

"(F) located in a State; and".

#### SEC. 353A. PART D HEADING.

The heading for part D of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087a et seq.) is amended to read as follows:

### "PART D—WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM"

#### SEC. 354. AUTHORIZATION OF APPROPRIATIONS FOR THE NATIONAL EARLY INTERVENTION SCHOLARSHIP AND PARTNERSHIP PROGRAM.

Section 404G of the Higher Education Act of 1965 (20 U.S.C. 1070a-27) is amended by striking the second sentence thereof.

#### SEC. 355. LENDER-OF-LAST-RESORT PROGRAMS.

(a) AMENDMENT.—Paragraph (1) of section 428(c) of the Higher Education Act of 1965 (20 U.S.C. 1078(c)(1)) is amended by adding at the end the following new subparagraph:

"(G) Notwithstanding any other provision of this section, the Secretary shall exclude a loan

made pursuant to a lender-of-last-resort program when making reimbursement payment calculations under subparagraphs (B) and (C)."

(b) **EFFECTIVE DATE.**—Subsection (a) and the amendment made by subsection (a) shall take effect on August 10, 1993.

**SEC. 356. FEDERAL CONSOLIDATION LOANS.**

Paragraph (4) of section 428C(a) of the Higher Education Act of 1965 (20 U.S.C. 1078-3(a)(4)) is amended—

(1) in subparagraph (B), by striking "or" after the semicolon;

(2) in subparagraph (C), by striking the period and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(D) made under subpart II of part B of title VIII of the Public Health Service Act."

**SEC. 357. DEFINITION OF ECONOMIC HARDSHIP.**

Paragraph (1) of section 435(o) of the Higher Education Act of 1965 (20 U.S.C. 1085(o)(1)) is amended—

(1) in clause (ii) of subparagraph (A), by striking "or" after the semicolon;

(2) by redesignating subparagraph (B) as subparagraph (C);

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) such borrower is working full-time and has a Federal educational debt burden that equals or exceeds 20 percent of such borrower's adjusted gross income, and the difference between such borrower's adjusted gross income minus such burden is less than 220 percent of the greater of—

"(i) the annual earnings of an individual earning the minimum wage under section 6 of the Fair Labor Standards Act of 1938; or

"(ii) the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act) applicable to a family of two; or"; and

(4) in paragraph (2), by striking "(1)(B)" and inserting "(1)(C)".

**SEC. 358. FACILITIES AUTHORITY OF THE STUDENT LOAN MARKETING ASSOCIATION.**

Section 439 of the Higher Education Act of 1965 (20 U.S.C. 1087-2) is amended—

(1) in subparagraph (C) of subsection (d)(1)—  
(A) in the matter preceding clause (i), by inserting "(including related equipment, instrumentation, and furnishings)" after "materials";

(B) in clause (ii), by striking the semicolon and inserting ", dining halls, student unions, and facilities specifically designed to promote fitness and health for students, faculty, and staff or for physical education courses; and";

(C) in clause (iii), by striking "and" after the semicolon;

(D) in the matter following clause (iv)—  
(i) by striking "15 percent" and inserting "30 percent"; and

(ii) by striking "type" and inserting "types"; and

(E) by striking clause (iv); and  
(2) in subsection (n), by striking "a report of its operations and activities during each year" and inserting "a report of the Association's operations and activities, including a report with respect to all facilities transactions, during each year".

**SEC. 358A. PROGRAM AUTHORITY.**

Section 451 of the Higher Education Act of 1965 (20 U.S.C. 2087a) is amended—

(1) by inserting "(a) IN GENERAL.—" before "There"; and

(2) by adding at the end the following new subsection:

"(b) **DESIGNATION.**—

"(1) **PROGRAM.**—The program established under this part shall be referred to as the 'William D. Ford Federal Direct Loan Program'.

"(2) **DIRECT LOANS.**—Notwithstanding any other provision of this part, loans made to borrowers under this part that, except as otherwise specified in this part, have the same terms, conditions, and benefits as loans made to borrowers under section 428, shall be known as 'Federal Direct Stafford/Ford Loans'."

**SEC. 359. DEFERMENT ELIGIBILITY.**

Subsection (f) of section 455 of the Higher Education Act of 1965 (20 U.S.C. 1087e(f)) is amended by adding at the end the following new paragraphs:

"(3) **DEFINITION OF BORROWER.**—For the purpose of this subsection, the term "borrower" means an individual who is a new borrower on the date such individual applies for a loan under this part for which the first disbursement is made on or after July 1, 1993.

"(4) **DEFERMENTS FOR PREVIOUS PART B LOAN BORROWERS.**—A borrower of a loan made under this part, who at the time such individual applies for such loan, has an outstanding balance of principal or interest owing on any loan made, insured, or guaranteed under part B of title IV prior to July 1, 1993, shall be eligible for a deferment under section 427(a)(2)(C) or section 428(b)(1)(M) as such sections were in effect on July 22, 1992."

**SEC. 360. CLOCK AND CREDIT HOUR TREATMENT OF DIPLOMA NURSING SCHOOLS.**

(a) **AMENDMENT.**—Part G of title IV of the Higher Education Act of 1965 (20 U.S.C. 1088 et seq.) is amended by inserting after section 481 the following new section:

**"SEC. 481A. CLOCK AND CREDIT HOUR TREATMENT OF DIPLOMA NURSING SCHOOLS.**

"Notwithstanding any other provision of this Act, any regulations promulgated by the Secretary concerning the relationship between clock hours and semester, trimester, or quarter hours in calculating student grant, loan, or work assistance under this title, shall not apply to a public or private nonprofit hospital-based school of nursing that awards a diploma at the completion of the school's program of education."

(b) **EFFECTIVE DATE.**—Subsection (a) and the amendment made by subsection (a) shall take effect on July 1, 1994.

**SEC. 360A. ELIGIBILITY FOR STUDENTS FROM PALAU.**

Subsection (j) of section 484 of the Higher Education Act of 1965 (20 U.S.C. 1091(j)) is amended to read as follows:

"(j) **ASSISTANCE UNDER SUBPARTS 1, 3, AND 6, AND CHAPTER 1 OF SUBPART 2, OF PART A, AND PART C.**—Notwithstanding any other provision of law, a student shall be eligible, if otherwise qualified, for assistance under subparts 1, 3, and 6, and chapter 1 of subpart 2, of part A, and part C, of this title, if the student is otherwise qualified and—

"(1) is a citizen of the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau, and attends an institution of higher education in a State or a public or nonprofit private institution of higher education in the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau; or

"(2) meets the requirements of subsection (a)(5) and attends a public or nonprofit private institution of higher education in the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau."

**SEC. 360B. DISCLOSURE OF ATHLETIC PROGRAM PARTICIPATION RATES AND FINANCIAL SUPPORT DATA.**

(a) **SHORT TITLE.**—This section may be cited as the "Equity in Athletics Disclosure Act".

(b) **FINDINGS.**—The Congress finds that—

(1) participation in athletic pursuits plays an important role in teaching young Americans

how to work on teams, handle challenges and overcome obstacles;

(2) participation in athletic pursuits plays an important role in keeping the minds and bodies of young Americans healthy and physically fit;

(3) there is increasing concern among citizens, educators, and public officials regarding the athletic opportunities for young men and women at institutions of higher education;

(4) a recent study by the National Collegiate Athletic Association found that in Division I-A institutions, only 20 percent of the average athletic department operations budget of \$1,310,000 is spent on women's athletics; 15 percent of the average recruiting budget of \$318,402 is spent on recruiting female athletes; the average scholarship expenses for men is \$1,300,000 and \$505,246 for women; and an average of 143 grants are awarded to male athletes and 59 to women athletes;

(5) female college athletes receive less than 18 percent of the athletics recruiting dollar and less than 24 percent of the athletics operating dollar;

(6) male college athletes receive approximately \$179,000,000 more per year in athletic scholarship grants than female college athletes;

(7) prospective students and prospective student athletes should be aware of the commitments of an institution to providing equitable athletic opportunities for its men and women students; and

(8) knowledge of an institution's expenditures for women's and men's athletic programs would help prospective students and prospective student athletes make informed judgments about the commitments of a given institution of higher education to providing equitable athletic benefits to its men and women students.

(c) **DISCLOSURE OF ATHLETIC PROGRAM.**—Section 485 of the Higher Education Act of 1965 (20 U.S.C. 1092) is amended by adding at the end the following new subsection:

"(g) **DATA REQUIRED.**—

"(1) **IN GENERAL.**—Each coeducational institution of higher education that participates in any program under this title, and has an intercollegiate athletic program, shall annually, for the immediately preceding academic year, prepare a report that contains the following information regarding intercollegiate athletics:

"(A) The number of male and female full-time undergraduates that attended the institution.

"(B) A listing of the varsity teams that competed in intercollegiate athletic competition and for each such team the following data:

"(i) The total number of participants, by team, as of the day of the first scheduled contest for the team.

"(ii) Total operating expenses attributable to such teams, except that an institution may also report such expenses on a per capita basis for each team and expenditures attributable to closely related teams such as track and field or swimming and diving, may be reported together, although such combinations shall be reported separately for men's and women's teams.

"(iii) Whether the head coach is male or female and whether the head coach is assigned to that team on a full-time or part-time basis. Graduate assistants and volunteers who serve as head coaches shall be considered to be head coaches for the purposes of this clause.

"(iv) The number of assistant coaches who are male and the number of assistant coaches who are female for each team and whether a particular coach is assigned to that team on a full-time or part-time basis. Graduate assistants and volunteers who serve as assistant coaches shall be considered to be assistant coaches for the purposes of this clause.

"(C) The total amount of money spent on athletically related student aid, including the value of waivers of educational expenses, separately for men's and women's teams overall.

"(D) The ratio of athletically related student aid awarded male athletes to athletically related student aid awarded female athletes.

"(E) The total amount of expenditures on recruiting, separately for men's and women's teams overall.

"(F) The total annual revenues generated across all men's teams and across all women's teams, except that an institution may also report such revenues by individual team.

"(G) The average annual institutional salary of the head coaches of men's teams, across all offered sports, and the average annual institutional salary of the head coaches of women's teams, across all offered sports.

"(H) The average annual institutional salary of the assistant coaches of men's teams, across all offered sports, and the average annual institutional salary of the assistant coaches of women's teams, across all offered sports.

"(2) SPECIAL RULE.—For the purposes of subparagraph (G), if a coach has responsibilities for more than one team and the institution does not allocate such coach's salary by team, the institution should divide the salary by the number of teams for which the coach has responsibility and allocate the salary among the teams on a basis consistent with the coach's responsibilities for the different teams.

"(3) DISCLOSURE OF INFORMATION TO STUDENTS AND PUBLIC.—An institution of higher education described in paragraph (1) shall make available to students and potential students, upon request, and to the public, the information contained in the report described in paragraph (1), except that all students shall be informed of their right to request such information.

"(4) DEFINITION.—For the purposes of this subsection, the term 'operating expenses' means expenditures on lodging and meals, transportation, officials, uniforms and equipment.

"(5) REGULATIONS AND EFFECTIVE DATE.—The Secretary shall issue final regulations to implement the requirements of this subsection not later than 180 days following the enactment of this subsection. Each institution described in paragraph (1) shall make available its first report pursuant to this section not later than October 1, 1996."

#### SEC. 360C. FEDERAL INSURANCE FOR BONDS.

Subsection (b) of section 723 of the Higher Education Act of 1965 (20 U.S.C. 1132c-2(b)) is amended—

(1) in paragraph (8)—

(A) in subparagraph (A), by inserting ", with each eligible institution required to maintain in the escrow account an amount equal to 10 percent of the outstanding principal of all loans made to such institution under this part" before the semicolon; and

(B) by amending clause (ii) of subparagraph (B) to read as follows:

"(ii) shall be used to return to an eligible institution an amount equal to any remaining portion of such institution's 10 percent deposit of loan proceeds following scheduled repayment of such institution's loan;" and

(2) in paragraph (11), by striking "regulations" and inserting "conditions".

#### SEC. 360D. GRANTS TO STATES FOR WORKPLACE AND COMMUNITY TRANSITION TRAINING FOR INCARCERATED YOUTH OFFENDERS.

Title X of the Higher Education Act of 1965 (20 U.S.C. 1135 et seq.) is amended by adding at the end the following new part:

#### "PART E—GRANTS TO STATES FOR WORKPLACE AND COMMUNITY TRANSITION TRAINING FOR INCARCERATED YOUTH OFFENDERS

##### "SEC. 1091. GRANTS TO STATES FOR WORKPLACE AND COMMUNITY TRANSITION TRAINING FOR INCARCERATED YOUTH OFFENDERS.

"(a) FINDINGS.—The Congress finds the following:

"(1) Over 150,000 youth offenders age 21 and younger are incarcerated in the Nation's jails, juvenile facilities, and prisons.

"(2) Most youth offenders who are incarcerated have been sentenced as first-time adult felons.

"(3) Approximately 75 percent of youth offenders are high school dropouts who lack basic literacy and life skills, have little or no job experience, and lack marketable skills.

"(4) The average incarcerated youth has attended school only through grade 10.

"(5) Most of these youths can be diverted from a life of crime into productive citizenship with available educational, vocational, work skills, and related service programs.

"(6) If not involved with educational programs while incarcerated, almost all of these youths will return to a life of crime upon release.

"(7) The average length of sentence for a youth offender is about 3 years. Time spent in prison provides a unique opportunity for education and training.

"(8) Even with quality education and training provided during incarceration, a period of intense supervision, support, and counseling is needed upon release to ensure effective reintegration of youth offenders into society.

"(9) Research consistently shows that the vast majority of incarcerated youths will not return to the public schools to complete their education.

"(10) There is a need for alternative educational opportunities during incarceration and after release.

"(b) DEFINITION.—For purposes of this part, the term 'youth offender' means a male or female offender under the age of 25, who is incarcerated in a State prison, including a prerelease facility.

"(c) GRANT PROGRAM.—The Secretary shall establish a program in accordance with this section to provide grants to the State correctional education agencies to assist and encourage incarcerated youths to acquire functional literacy, life, and job skills, through the pursuit of a postsecondary education certificate, or an associate of arts or bachelor's degree while in prison, and employment counseling and other related services which start during incarceration and continue through prerelease and while on parole.

"(d) APPLICATION.—To be eligible for a grant under this section, a State correctional education agency shall submit to the Secretary a proposal for a youth offender program that—

"(1) identifies the scope of the problem, including the number of incarcerated youths in need of postsecondary education and vocational training;

"(2) lists the accredited public or private educational institution or institutions that will provide postsecondary educational services;

"(3) lists the cooperating agencies, public and private, or businesses that will provide related services, such as counseling in the areas of career development, substance abuse, health, and parenting skills;

"(4) describes the evaluation methods and performance measures that the State correctional education agency will employ, provided that such methods and measures are appropriate to meet the goals and objectives of the proposal, and that such methods and measures include measures of—

"(A) program completion;

"(B) student academic and vocational skill attainment;

"(C) success in job placement and retention; and

"(D) recidivism;

"(5) describes how the proposed programs are to be integrated with existing State correctional

education programs (such as adult education, graduate education degree programs, and vocational training) and State industry programs;

"(6) addresses the educational needs of youth offenders who are in alternative programs (such as boot camps); and

"(7) describes how students will be selected so that only youth offenders eligible under subsection (f) will be enrolled in postsecondary programs.

"(e) PROGRAM REQUIREMENTS.—Each State correctional education agency receiving a grant under this section shall—

"(1) integrate activities carried out under the grant with the objectives and activities of the school-to-work programs of such State, including—

"(A) work experience or apprenticeship programs;

"(B) transitional worksite job training for vocational education students that is related to the occupational goals of such students and closely linked to classroom and laboratory instruction;

"(C) placement services in occupations that the students are preparing to enter;

"(D) employment-based learning programs; and

"(E) programs that address State and local labor shortages;

"(2) annually report to the Secretary and the Attorney General on the results of the evaluations conducted using the methods and performance measures contained in the proposal; and

"(3) provide to each State for each student eligible under subsection (f) not more than \$1,500 annually for tuition, books, and essential materials, and not more than \$300 annually for related services such as career development, substance abuse counseling, parenting skills training, and health education, for each eligible incarcerated youth.

"(f) STUDENT ELIGIBILITY.—A youth offender shall be eligible for participation in a program receiving a grant under this section if the youth offender—

"(1) is eligible to be released within five years (including a youth offender who is eligible for parole within such time); and

"(2) is 25 years of age or younger.

"(g) LENGTH OF PARTICIPATION.—A State correctional education agency receiving a grant under this section shall provide educational and related services to each participating youth offender for a period not to exceed 5 years, 1 year of which may be devoted to study in a graduate education degree program or to remedial education services for students who have obtained a secondary school diploma. Educational and related services shall start during the period of incarceration in prison or prerelease and may continue during the period of parole.

"(h) EDUCATION DELIVERY SYSTEMS.—State correctional education agencies and cooperating institutions shall, to the extent practicable, use high-tech applications in developing programs to meet the requirements and goals of this section.

"(i) ALLOCATION OF FUNDS.—From the amounts appropriated pursuant to subsection (j), the Secretary shall allot to each State an amount that bears the same relationship to such funds as the total number of students eligible under subsection (f) in such State bears to the total number of such students in all States.

"(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$5,000,000 for fiscal year 1995 and such sums as may be necessary for fiscal year 1996 and each of the four succeeding fiscal years."

#### PART F—OTHER ACTS

##### SEC. 361. GOALS 2000: EDUCATE AMERICA ACT.

(a) REPEALS.—Sections 231, 232, 234, and 235 of the Goals 2000: Educate America Act (20 U.S.C. 5861, 5862, 5863, and 5864) are repealed.

## (b) GIFT AUTHORITY.—

(1) NATIONAL EDUCATION GOALS PANEL.—Section 204 of the Goals 2000: Educate America Act (20 U.S.C. 5824) is amended by adding at the end the following new subsection:

"(f) GIFTS.—The Goals Panel may accept, administer, and utilize gifts or donations of services, money, or property, whether real or personal, tangible or intangible."

(2) NATIONAL EDUCATION STANDARDS AND IMPROVEMENT COUNCIL.—Section 215 of the Goals 2000: Educate America Act (20 U.S.C. 5845) is amended by adding at the end the following new subsection:

"(f) GIFTS.—The Council may accept, administer, and utilize gifts or donations of services, money, or property, whether real or personal, tangible or intangible."

(c) LOCAL AGENCY PLAN APPROVAL.—Paragraph 4 of section 309(a) of the Goals 2000: Educate America Act (20 U.S.C. 5889) is amended by inserting "made by the local educational agency" after "modifications".

(d) STATE PLANNING FOR IMPROVING STUDENT ACHIEVEMENT THROUGH INTEGRATION OF TECHNOLOGY INTO THE CURRICULUM.—Subsection (b) of section 317 of the Goals 2000: Educate America Act (20 U.S.C. 5897(b)) is amended by adding at the end the following new paragraph:

"(3) OUTLYING AREAS.—(A) From the amount appropriated pursuant to the authority of subsection (f) for fiscal year 1995, the Secretary shall reserve a total of 1 percent to provide assistance under this section—

"(i) to the outlying areas; and

"(ii) for the Secretary of the Interior to conduct directly or through a contract, systemic technology planning for Bureau-funded schools.

"(B) The funds reserved under subparagraph (A) shall be distributed among the outlying areas and the Secretary of the Interior by the Secretary according to the relative need of such areas and schools for assistance under this section."

**SEC. 362. EDUCATION COUNCIL ACT OF 1991.**

Title II of the Education Council Act of 1991 (20 U.S.C. 1221-1 note) is repealed.

**SEC. 363. AUGUSTUS F. HAWKINS-ROBERT T. STAFFORD ELEMENTARY AND SECONDARY SCHOOL IMPROVEMENT AMENDMENTS OF 1988.**

Title IV of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (20 U.S.C. 4901 et seq.) is repealed.

**SEC. 364. STAR SCHOOLS PROGRAM ASSISTANCE ACT.**

The Star Schools Program Assistance Act (20 U.S.C. 4081 et seq.) is repealed.

**SEC. 365. 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. 4801) is repealed.

**SEC. 366. TECHNOLOGY-RELATED ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES ACT OF 1988.**

(a) IN GENERAL.—Part E of title II of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2231 et seq.) is repealed.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the Technology-Related Assistance for Individuals With Disabilities Act Amendments of 1994.

**SEC. 367. INDIAN EDUCATION ACT OF 1988.**

The Indian Education Act of 1988 (25 U.S.C. 2601 note) is repealed.

**SEC. 368. REHABILITATION ACT.**

(a) IN GENERAL.—Notwithstanding any provision of the Rehabilitation Act of 1973, the amount otherwise payable to a State under sec-

tion 111 of such Act shall be reduced for fiscal years 1987, 1988, and 1989, by the amount by which expenditures from non-Federal sources under the State plan under title I of such Act for such year are less than the total of such expenditures for fiscal year 1972.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the Rehabilitation Act Amendments of 1992.

**SEC. 369. AMENDMENT TO THE CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT REGARDING THE TERRITORIES.**

Section 101A of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2311a) is amended to read as follows: "**SEC. 101A. THE TERRITORIES.**

"(a) THE TERRITORIES.—From funds reserved pursuant to section 101(a)(1)(C), the Secretary shall—

"(1) make a grant in the amount of \$500,000 to Guam; and

"(2) make a grant in the amount of \$190,000 to each of American Samoa and the Commonwealth of the Northern Mariana Islands.

"(b) REMAINDER.—Subject to the provisions of subsection (a), the Secretary shall make a grant of the remainder of funds reserved pursuant to section 101(a)(1)(C) to the Pacific Region Educational Laboratory in Honolulu, Hawaii, to make grants for vocational education and training in Guam, American Samoa, the Republic of Palau, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, and the Republic of the Marshall Islands, for the purpose of providing direct educational services, including—

"(1) teacher and counselor training and re-training;

"(2) curriculum development; and

"(3) improving vocational education and training programs in secondary schools and institutions of higher education, or improving cooperative education programs involving both secondary schools and institutions of higher education.

"(c) LIMITATION.—The Pacific Region Educational Laboratory may use not more than 5 percent of the funds received pursuant to subsection (b) for administrative costs."

**SEC. 370. FAMILY SUPPORT CENTER PROGRAM.**

(a) ADMINISTRATIVE PROVISIONS.—Subsection (f) of section 772 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11482(f)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) ADMINISTRATIVE COSTS.—Two percent of the amounts appropriated under this title may be used by the Secretary to administer the programs established under this title and three percent of the amounts appropriated under this title may be used by the Secretary to evaluate such programs and to provide technical assistance to entities for the development and submission of applications for grants under this section."

(2) in paragraph (3), by striking "2 years" and inserting "3 years"; and

(3) by adding at the end thereof the following new paragraph:

"(4) MINIMUM AMOUNT.—No grant made under subsection (a) may be awarded in an amount that is less than \$200,000 per year."

(b) REPORT.—The matter preceding paragraph (1) of section 777 of such Act (42 U.S.C. 11487) is amended by striking "1992" and inserting "1995".

(c) AUTHORIZATION FOR APPROPRIATIONS.—Section 779 of such Act (42 U.S.C. 11489) is amended by striking "for fiscal year 1993" and inserting "for each of the fiscal years 1993 through 1998".

(d) TECHNICAL AMENDMENT.—Subsection (a) of section 774 of such Act (42 U.S.C. 11484(a)) is

amended by striking "subsection (e)" and inserting "subsection (d)".

**SEC. 371. THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES ACT OF 1965.**

Subsection (c) of section 11 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(c)) is amended—

(1) in the second sentence of paragraph (1)—

(A) by striking "any fiscal year" and inserting "fiscal year 1995"; and

(B) by striking "\$50,000" and inserting "\$100,000"; and

(2) in the second sentence of paragraph (2)—

(A) by striking "any fiscal year" and inserting "fiscal year 1995"; and

(B) by striking "\$50,000" and inserting "\$100,000".

**SEC. 372. OFFICE OF INDIAN EDUCATION; OFFICE OF BILINGUAL EDUCATION.**

Title II of the Department of Education Organization Act (20 U.S.C. 3411 et seq.) is further amended—

(1) by redesignating section 215 as section 217; and

(2) by adding after section 214 (as added by section 271(c)) the following new section:

**"SEC. 215. OFFICE OF INDIAN EDUCATION.**

"(a) OFFICE OF INDIAN EDUCATION.—There shall be an Office of Indian Education (referred to in this section as 'the Office') in the Department of Education.

"(b) DIRECTOR.—

"(1) APPOINTMENT AND REPORTING.—The Office shall be under the direction of the Director, who shall be appointed by the Secretary and who shall report directly to the Assistant Secretary for Elementary and Secondary Education.

"(2) DUTIES.—The Director shall—

"(A) be responsible for administering this title;

"(B) be involved in, and be primarily responsible for, the development of all policies affecting Indian children and adults under programs administered by the Office of Elementary and Secondary Education;

"(C) coordinate the development of policy and practice for all programs in the Department relating to Indian persons; and

"(D) assist the Assistant Secretary of the Office of Educational Research and Improvement in identifying research priorities related to the education of Indian persons.

"(c) INDIAN PREFERENCE IN EMPLOYMENT.—

"(1) IN GENERAL.—The Secretary shall give a preference to Indian persons in all personnel actions in the Office.

"(2) IMPLEMENTATION.—Such preference shall be implemented in the same fashion as the preference given to any veteran under section 45 of title 25, United States Code.

**"SEC. 216. OFFICE OF BILINGUAL EDUCATION AND MINORITY LANGUAGES AFFAIRS.**

"(a) ESTABLISHMENT.—There shall be, in the Department, an Office of Bilingual Education and Minority Languages Affairs through which the Secretary shall carry out functions relating to bilingual education.

"(b) DIRECTOR.—

"(1) IN GENERAL.—The Office shall be headed by a Director of Bilingual Education and Minority Languages Affairs, appointed by the Secretary, to whom the Secretary shall delegate all delegable functions relating to bilingual education. The Director shall also be assigned responsibility for recommending improvements and providing technical assistance to other Federal programs serving language-minority and limited-English-proficient students and their families and for assisting the Assistant Secretary of the Office of Educational Research and Improvement in identifying research priorities which reflect the needs of language-minority

and limited-English language proficient students.

"(2) ORGANIZATION.—The Office shall be organized as the Director determines to be appropriate in order to carry out such functions and responsibilities effectively.

"(3) INCLUSION.—The Secretary shall ensure that limited-English-proficient and language-minority students are included in ways that are valid, reliable, and fair under all standards and assessment development conducted or funded by the Department."

#### **PART G—LIBRARY SERVICES AND CONSTRUCTION REAUTHORIZATION**

##### **SEC. 375. LIBRARY SERVICES AND CONSTRUCTION ACT AUTHORIZATIONS.**

(a) IN GENERAL.—Subsection (a) of section 4 of the Library Services and Construction Act (20 U.S.C. 351b(a)) is amended—

(1) by striking "for fiscal year 1990 and such sums as may be necessary for each of the 4 succeeding fiscal years" each place the phrase appears and inserting "for fiscal year 1995"; and

(2) in the matter following paragraph (7), by striking "each of the fiscal years 1990, 1991, 1992, 1993, and 1994" and inserting "fiscal year 1995".

(b) FAMILY LEARNING CENTERS.—Section 806 (20 U.S.C. 385e) is amended to read as follows:

##### **"AUTHORIZATION OF APPROPRIATIONS**

"SEC. 806. There are authorized to be appropriated such sums as may be necessary for fiscal year 1995 to carry out this part."

(c) LIBRARY LITERACY CENTERS.—Section 818 (20 U.S.C. 386g) is amended to read as follows:

##### **"AUTHORIZATION OF APPROPRIATIONS**

"SEC. 818. There are authorized to be appropriated such sums as may be necessary for fiscal year 1995 to carry out this part."

#### **PART H—AMENDMENTS TO STATUTES PERTAINING TO INDIAN EDUCATION**

##### **SEC. 381. BUREAU OF INDIAN AFFAIRS.**

Part B of title XI of the Education Amendments of 1978 (25 U.S.C. 2001 et seq.) is amended to read as follows:

##### **"PART B—BUREAU OF INDIAN AFFAIRS PROGRAMS**

##### **"SEC. 1121. STANDARDS FOR THE BASIC EDUCATION OF INDIAN CHILDREN IN BUREAU OF INDIAN AFFAIRS SCHOOLS.**

"(a)(1) The purpose of the standards developed under this section shall be to afford Indian students being served by a Bureau funded school with the same opportunities as all other students to achieve the National Education Goals embodied in the Goals 2000: Educate America Act. Consistent with the provisions of this section and section 1131, the Secretary shall take such actions as are necessary to coordinate standards developed and implemented under this section with those in the State improvement plans developed and implemented pursuant to the Goals 2000: Educate America Act for the States in which each Bureau funded school operates. In developing and reviewing such standards and coordination, the Secretary shall utilize the findings and recommendations of the panel established in section 315(b)(4) of such Act.

"(2) The Secretary shall take immediate steps to encourage school boards of Bureau funded schools to engage their communities in adopting declarations of purposes of education in their communities, analyzing the implications of such purposes for their schools, and determining how such purposes may be made to motivate students and faculties and otherwise animate their schools by May 1, 1995. Such declarations shall represent the aspirations of a community for the kinds of persons such community wants its children to increasingly become, and shall include such purposes as assuring that all learners are

becoming accomplished in ways important to themselves and respected by their parents and communities, shaping worthwhile and satisfying lives for themselves, exemplifying the best values of the community and humankind, and becoming increasingly effective in shaping the character and quality of the world all learners share.

"(b) Within 18 months of the publication of the voluntary national content standards described in section 213(a) of the Goals 2000: Educate America Act, the Secretary, in consultation with the Secretary of Education and Indian organizations and tribes, shall carry out or cause to be carried out by contract with an Indian organization such studies and surveys, making the fullest use possible of other existing studies, surveys, and plans, as are necessary to establish and revise standards for the basic education of Indian children attending Bureau funded schools. Such studies and surveys shall take into account factors such as academic needs, local cultural differences, type and level of language skills, geographic isolation, and appropriate teacher-student ratios for such children, and shall be directed toward the attainment of equal educational opportunity for such children.

"(c)(1) The Secretary shall revise the minimum academic standards published in the Federal Register of September 9, 1985 (50 Fed. Reg. 174) for the basic education of Indian children in accordance with the purpose described in subsection (a) and the findings of the studies and surveys described in subsection (b), and shall publish such revised standards in the Federal Register for the purpose of receiving comments from the tribes and other interested parties. Within 21 months of the date of enactment of the Improving America's Schools Act of 1994, the Secretary shall establish final standards, distribute such standards to all the tribes and publish such final standards in the Federal Register. The Secretary shall revise such final standards periodically as necessary. Prior to any revision of such final standards, the Secretary shall distribute such proposed revision to all the tribes, and publish such proposed revision in the Federal Register, for the purpose of receiving comments from the tribes and other interested parties.

"(2) The standards described in paragraph (1) shall apply to Bureau schools, and subject to subsection (f), to contract or grant schools, and may also serve as a model for educational programs for Indian children in public schools. In establishing and revising such standards, the Secretary shall take into account the special needs of Indian students and the support and reinforcement of the specific cultural heritage of each tribe.

"(d) The Secretary shall provide alternative or modified standards in lieu of the standards established under subsection (c), where necessary, so that the programs of each school shall be in compliance with the minimum standards required for accreditation of schools in the State where the school is located.

"(e) A tribal governing body, or the local school board so designated by the tribal governing body, shall have the local authority to waive, in part or in whole, the standards established under subsection (c) and (d), where such standards are deemed by such body to be inappropriate. The tribal governing body or designated school board shall, within 60 days thereafter, submit to the Secretary a proposal for alternative standards that take into account the specific needs of the tribe's children. Such revised standards shall be established by the Secretary unless specifically rejected by the Secretary for good cause and in writing to the affected tribes or local school board, which rejection shall be final and unreviewable.

"(f)(1) The Secretary, through contracting and grant-making procedures, shall assist school boards of contract or grant schools in the implementation of the standards established under subsections (c) and (d), if the school boards request that such standards, in part or in whole, be implemented. At the request of a contract or grant school board, the Secretary shall provide alternative or modified standards for the standards established under subsections (c) and (d) to take into account the needs of the Indian children and the contract or grant school.

"(2) Within 1 year of the date of the enactment of the Indian Education Technical Amendments Act of 1985, the Bureau shall, either directly or through contract with an Indian organization, establish a consistent system of reporting standards for fiscal control and fund accounting for all contract or grant schools. Such standards shall yield data results comparable to those used by Bureau schools.

"(g) Subject to subsections (e) and (f), the Secretary shall begin to implement the standards established under this section immediately upon the date of their establishment. Not later than January 1, 1995, and at each time thereafter that the annual budget request for Bureau educational services is presented, the Secretary shall submit to the appropriate committees of Congress a detailed plan to bring all Bureau schools and contract or grant schools up to the level required by the applicable standards established under this section. Such plan shall include detailed information on the status of each school's educational program in relation to the applicable standards established under this section, specific cost estimates for meeting such standards at each school, and specific time lines for bringing each school up to the level required by such standards.

"(h)(1) Except as specifically required by statute, no school or peripheral dormitory operated by the Bureau on or after January 1, 1992, may be closed or consolidated or have its program substantially curtailed unless done according to the requirements of this subsection, except that, in those cases where the tribal governing body, or the local school board concerned (if so designated by the tribal governing body), requests closure or consolidation, the requirements of this subsection shall not apply. The requirements of this subsection shall not apply when a temporary closure, consolidation, or substantial curtailment is required by plant conditions which constitute an immediate hazard to health and safety.

"(2) The Secretary shall, by regulation, promulgate standards and procedures for the closing, consolidation, or substantial curtailment of Bureau schools in accordance with the requirements of this subsection.

"(3) Whenever closure, transfer to any other authority, consolidation, or substantial curtailment of a school is under active consideration or review by any division of the Bureau or the Department of the Interior, the affected tribe, tribal governing body, and designated local school board, will be notified as soon as such consideration or review begins, kept fully and currently informed, and afforded an opportunity to comment with respect to such consideration or review. When a formal decision is made to close, transfer to any other authority, consolidate, or substantially curtail a school, the affected tribe, tribal governing body, and designated local school board shall be notified at least 6 months prior to the end of the school year preceding the proposed closure date. Copies of any such notices and information shall be transmitted promptly to the Congress and published in the Federal Register.

"(4) The Secretary shall make a report to Congress, the affected tribe, and the designated

local school board describing the process of the active consideration or review referred to in paragraph (3). At a minimum, the report shall include a study of the impact of such action on the student population, with every effort to identify those students with particular educational and social needs, and to ensure that alternative services are available to such students. Such report shall include the description of the consultation conducted between the potential service provider, current service provider, parents, tribal representative and the tribe or tribes involved, and the Director of the Office of Indian Education Programs within the Bureau regarding such students. No irreversible action may be taken in furtherance of any such proposed school closure, transfer to any other authority, consolidation, or substantial curtailment (including any action which would prejudice the personnel or programs of such school) until the end of the first full academic year after such report is made.

"(5) The Secretary may terminate, contract, transfer to any other authority, or consolidate or substantially curtail the operation or facilities of—

"(A) any Bureau funded school that is operated on or after April 1, 1987,

"(B) any program of such a school that is operated on or after April 1, 1987, or

"(C) any school board of a school operated under a grant under the Tribally Controlled Schools Act of 1988, only if the tribal governing body approves such action.

"(i) There are authorized to be appropriated such sums as may be necessary, for academic program costs, in order to bring all Bureau schools and contract or grant schools up to the level required by the applicable standards established under this section.

"(j)(1) All Bureau funded schools shall include within their curriculum a program of instruction relating to alcohol and substance abuse prevention and treatment. The Assistant Secretary shall provide the technical assistance necessary to develop and implement such a program for students in kindergarten and grades 1 through 12, at the request of—

"(A) any Bureau school (subject to the approval of the school board of such school);

"(B) any school board of a school operating under a contract entered into under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.); or

"(C) any school board of a school operating under a grant under the Tribally Controlled Schools Act of 1988.

"(2) In schools operated directly by the Bureau, the Secretary shall provide for—

"(A) accurate reporting of all incidents relating to alcohol and substance abuse; and

"(B) individual student crisis intervention.

"(3) The programs requested under paragraph (1) shall be developed in consultation with the Indian tribe that is to be served by such program and health personnel in the local community of such tribe.

"(4) Schools requesting program assistance under this subsection are encouraged to involve family units and, where appropriate, tribal elders and Native healers in such instructions.

"(k) For purposes of this section, the term 'tribal governing body' means, with respect to any school, the tribal governing body, or tribal governing bodies, that represent at least 90 percent of the students served by such school.

"(l)(1)(A)(i) The Secretary shall only consider the factors described in subparagraphs (B) and (C) in reviewing—

"(I) applications from any tribe for the awarding of a contract or grant for a school that is not a Bureau funded school; and

"(II) applications from any tribe or school board of any Bureau funded school for—

"(aa) a school which is not a Bureau funded school; or

"(bb) the expansion of a Bureau funded school which would increase the amount of funds received by the Indian tribe or school board under section 1127.

"(ii) The Secretary shall give consideration to all of the factors under clause (i), but none of the applications under clause (i) may be denied based primarily upon the geographic proximity of public education.

"(B) The Secretary shall consider the following factors relating to the program that is the subject of an application described in subparagraph (A):

"(i) The adequacy of facilities or the potential to obtain or provide adequate facilities.

"(ii) Geographic and demographic factors in the affected areas.

"(iii) Adequacy of the applicant's program plans or, in the case of a Bureau funded school, of projected needs analysis done either by a tribe or by Bureau personnel.

"(iv) Geographic proximity of comparable public education.

"(v) The stated needs of all affected parties, including students, families, tribal governments at both the central and local levels, and school organizations.

"(C) The Secretary shall consider with respect to applications described in subparagraph (A) the following factors relating to all the educational services available at the time the application is considered:

"(i) Geographic and demographic factors in the affected areas.

"(ii) Adequacy and comparability of programs already available.

"(iii) Consistency of available programs with tribal educational codes or tribal legislation on education.

"(iv) The history and success of these services for the proposed population to be served, as determined from all factors and not just standardized examination performance.

"(2)(A) The Secretary shall make a determination of whether to approve any application described in paragraph (1)(A) by not later than the date that is 180 days after the day on which such application is submitted to the Secretary.

"(B) If the Secretary fails to make the determination described in subparagraph (A) with respect to an application by the date described in subparagraph (A), the application shall be treated as having been approved by the Secretary.

"(3)(A) Any application described in paragraph (1)(A) may be submitted to the Secretary only if—

"(i) the application has been approved by the tribal governing body of the students served by (or to be served by) the school or program that is the subject of the application, and

"(ii) written evidence of such approval is submitted with the application.

"(B) Each application described in paragraph (1)(A)—

"(i) shall provide information concerning each of the factors described in paragraph (1)(B), and

"(ii) may provide information concerning the factors described in paragraph (1)(C).

"(4) Whenever the Secretary makes a determination to deny approval of any application described in paragraph (1)(A), the Secretary shall—

"(A) state the objections in writing to the applicant by not later than the date that is 180 days after the day on which the application is submitted to the Secretary,

"(B) provide assistance to the applicant to overcome stated objections, and

"(C) provide the applicant a hearing, under the same rules and regulations pertaining to the Indian Self-Determination and Education As-

sistance Act, and an opportunity to appeal the objections raised by the Secretary.

"(5)(A) Except as otherwise provided in this paragraph, the action which is the subject of any application described in paragraph (1)(A) that is approved by the Secretary shall become effective with the commencement of the academic year succeeding the fiscal year in which the application is approved, or at an earlier date determined by the Secretary.

"(B) If an application is treated as having been approved by the Secretary by reason of paragraph (2)(B), the action that is the subject of the application shall become effective on the date that is 18 months after the date on which the application is submitted to the Secretary, or at an earlier date determined by the Secretary.

#### "SEC. 1122. NATIONAL CRITERIA FOR DORMITORY SITUATIONS.

"(a) The Secretary, in consultation with the Secretary of the Department of Education, and in consultation with Indian organizations and tribes, shall conduct or cause to be conducted by contract with an Indian organization, a study of the costs applicable to boarding arrangements for Indian students provided in Bureau schools, and contract or grant schools, for the purpose of establishing national criteria for such dormitory situations. Such criteria shall include adult-child ratios, needs for counselors (including special needs related to off-reservation boarding arrangements), space, and privacy.

"(b) Not later than January 1, 1996, the Secretary shall propose such criteria, and shall distribute such proposed criteria to the tribes and publish such proposed criteria in the Federal Register for the purpose of receiving comments from the tribes and other interested parties. Within 18 months of the date of the enactment of the Improving America's Schools Act of 1994, the Secretary shall establish final criteria, distribute such final criteria to all the tribes, and publish such final criteria in the Federal Register. The Secretary shall revise such final criteria periodically as necessary. Any revisions to the criteria established under this section shall be developed subject to requirements established under section 1131.

"(c) The Secretary shall begin to implement the criteria established under this section immediately upon the date of the establishment of such criteria. Not later than January 1, 1997, and at each time thereafter that the annual budget request for Bureau educational services is presented, the Secretary shall submit to the appropriate committees of Congress a detailed plan to bring all Bureau contract boarding schools up to the criteria established under this section. Such plan shall include predictions for the relative need for each boarding school in the future, detailed information on the status of each school in relation to the criteria established under this section, specific cost estimates for meeting such criteria at each school, and specific time lines for bringing each school up to the level required by such criteria.

"(d)(1) The criteria established under this section may be waived in the same manner as the standards provided under section 1121(c) may be waived under section 1121(e).

"(2) No school in operation on or before January 1, 1987 (regardless of compliance or non-compliance with the criteria established under this section) may be closed, transferred to another authority, consolidated or have its program substantially curtailed for failure to meet the criteria.

"(3) By not later than May 1, 1996, the Secretary shall submit to the Congress a report detailing the costs associated with, and the actions necessary for, complete compliance with the criteria established under this section.

"(e) There are authorized to be appropriated such sums as may be necessary in order to bring

each school up to the level required by the criteria established under this section.

**"SEC. 1123. REGULATIONS.**

"(a) The provisions of part 32 of title 25 of the Code of Federal Regulations, as in effect on January 1, 1987, are incorporated into this Act and shall be treated as though such provisions are set forth in this subsection. Accordingly, such provisions may be altered only by means of an amendment to this subsection that is contained in an Act or joint resolution which is enacted into law. To the extent that such provisions of part 32 do not conform with this Act or any statutory provision of law enacted before the date of enactment of this Act, the provisions of this Act and the provisions of such other statutory law shall govern.

"(b) The provisions of parts 31, 33, 36, 39, 42, and 43 of title 25 of the Code of Federal Regulations, as in effect on January 1, 1987, shall be applied by the Federal Government and shall not, before July 1, 1989, be amended, revoked, or altered in any manner. No officer or employee of the executive branch shall have the authority to issue any other regulations, prior to July 1, 1989, that supersede, supplement, or otherwise affect the provisions of such parts. To the extent that the provisions of such parts do not conform with this Act or any statutory provision of law enacted before the date of enactment of this Act, the provisions of this Act and the provisions of such other statutory law shall govern.

"(c) After June 30, 1989, no regulation prescribed for the application of any program provided under this title shall become effective unless—

"(1) the regulation has been published as a proposed regulation in the Federal Register,

"(2) an opportunity of not less than 90 days has been afforded the public to comment on the published proposed regulation, and

"(3) the regulation has, after such period for public comment, been published in the Federal Register as a final regulation.

"(d) For purposes of this section, the term 'regulation' means any rules, regulations, guidelines, interpretations, orders, or requirements of general applicability prescribed by any officer or employee of the executive branch.

**"SEC. 1124. SCHOOL BOUNDARIES.**

"(a) The Secretary shall, in accordance with this section, establish separate geographical attendance areas for each Bureau school.

"(b)(1) Except as provided in paragraph (2), on or after July 1, 1985, no attendance area shall be changed or established with respect to any Bureau funded school unless the tribal governing body or the local school board concerned (if so designated by the tribal governing body) has been (i) afforded at least six months notice of the intention of the Bureau to change or establish such attendance area, and (ii) given the opportunity to propose alternative boundaries. Any tribe may petition the Secretary for revision of existing attendance area boundaries. The Secretary shall accept such proposed alternative or revised boundaries unless the Secretary finds, after consultation with the affected tribe or tribes, that such revised boundaries do not reflect the needs of the Indian students to be served or do not provide adequate stability to all of the affected programs.

"(2) In any case where there is more than 1 Bureau funded school located on an Indian reservation, at the direction of the tribal governing body, the relevant school boards of the Bureau funded schools on the reservation may, by mutual consent, establish the relevant attendance areas for such schools, subject to the approval of the tribal governing body. Any such boundaries so established shall be accepted by the Secretary.

"(c) In any case where there is only 1 Bureau operated program located on an Indian reserva-

tion, the attendance area for the program shall be the boundaries of the reservation served, and those students residing near the reservation shall also receive services from such program.

"(d) The Bureau shall include in the regulations the requirement that each appropriate education line officer coordinate and consult with the affected tribes and relevant school boards in the establishment of such geographic boundaries.

**"SEC. 1125. FACILITIES CONSTRUCTION.**

"(a) The Secretary shall immediately begin to bring all schools, dormitories, and other facilities operated by the Bureau or under contract or grant with the Bureau in connection with the education of Indian children into compliance with all applicable Federal, tribal, or State health and safety standards, whichever provide greater protection (except that the tribal standards to be applied shall be no greater than any otherwise applicable Federal or State standards), with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and with the Americans with Disabilities Act of 1990, except that nothing in this section shall require termination of the operations of any facility which does not comply with such provisions and which is in use on the date of enactment of the Improving America's Schools Act of 1994.

"(b) By January 1, 1996, and at each time thereafter that the annual budget request for Bureau educational services is presented, the Secretary shall submit to the appropriate committees of Congress a detailed plan to bring such facilities into compliance with such standards. Such plan shall include detailed information on the status of each facility's compliance with such standards, specific cost estimates for meeting such standards at each school, and specific time lines for bringing each school into compliance with such standards.

"(c) Within six months of the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress, and publish in the Federal Register, the system used to establish priorities for school construction projects. At the time any budget request for school construction is presented, the Secretary shall publish in the Federal Register and submit with the budget request the current list of all school construction priorities.

"(d)(1) A Bureau school may be closed or consolidated, and the programs of a Bureau school may be substantially curtailed, by reason of plant conditions that constitute an immediate hazard to health and safety only if a health and safety officer of the Bureau determines that such conditions exist at the Bureau school.

"(2)(A) In making determinations described in paragraph (1) before July 1, 1989, health and safety officers of the Bureau shall use the health and safety guidelines of the Bureau that were in effect on January 1, 1988.

"(B)(i) If—

"(I) the Secretary fails to publish in the Federal Register in final form before July 1, 1989, and

"(II) action described in paragraph (1) is taken after June 30, 1989, and before the date on which such regulations are published in final form in the Federal Register by reason of the condition of any plant,

an inspection of the condition of such plant shall be conducted by an appropriate tribal, county, municipal, or State health and safety officer to determine whether conditions at such plant constitute an immediate hazard to health and safety. Such inspection shall be completed by not later than the date that is 30 days after the date on which the action described in paragraph (1) is taken.

"(ii) The inspection required under clause (i) shall be conducted by a health and safety officer designated jointly by the Secretary and the

tribes affected by the action described in paragraph (1). If the Secretary and such tribes are unable to agree on the designation of the health and safety officer, the Secretary shall designate the health and safety officer and shall provide notice of such designation to each of such tribes before the inspection is conducted by such officer.

"(iii) If the health and safety officer conducting an inspection of a plant required under clause (i) determines that conditions at the plant do not constitute an immediate hazard to health and safety, any consolidation or curtailment that was made by reason of conditions at the plant shall immediately cease and any school closed by reason of conditions at the plant shall be reopened immediately.

"(3) If—

"(A) a Bureau school is temporarily closed or consolidated, or the programs of a Bureau school are substantially curtailed, by reason of plant conditions that constitute an immediate hazard to health and safety, and

"(B) the Secretary estimates that the closure, consolidation, or curtailment will be more than 1 year in duration,

the Secretary shall submit to the Congress, by not later than the date that is 6 months after the date on which the closure, consolidation, or curtailment is initiated, a report which sets forth the reasons for such temporary actions and the actions the Secretary is taking to eliminate the conditions that constitute the hazard.

"(e) There are authorized to be appropriated such sums as may be necessary to carry out subsection (a).

**"SEC. 1126. BUREAU OF INDIAN AFFAIRS EDUCATION FUNCTIONS.**

"(a) The Secretary shall vest in the Assistant Secretary for Indian Affairs all functions with respect to formulation and establishment of policy and procedure, and supervision of programs and expenditures of Federal funds for the purpose of Indian education administered by the Bureau. The Assistant Secretary shall carry out such functions through the Director of the Office of Indian Education.

"(b) The Director of the Office shall direct and supervise the operations of all personnel directly and substantially involved with provision of education services by the Bureau, including school or institution custodial or maintenance personnel. The Assistant Secretary for Indian Affairs shall provide for the adequate coordination between the affected Bureau Offices and the Office to facilitate the consideration of all contract functions relating to education. Except as required by section 1129, nothing in this Act shall be construed to require the provision of separate support services for Indian education.

"(c) Education personnel who are under the direction and supervision of the Director of the Office in accordance with the first sentence of subsection (b) shall—

"(1) monitor and evaluate Bureau education programs,

"(2) provide all services and support functions for education programs with respect to personnel matters involving staffing actions and functions, and

"(3) provide technical and coordinating assistance in areas such as procurement, contracting, budgeting, personnel, and curriculum.

"(d)(1) The Assistant Secretary shall submit in the annual Budget a plan—

"(A) for school facilities to be constructed under the system required by section 1125(c);

"(B) for establishing priorities among projects and for the improvement and repair of education facilities, which together shall form the basis for the distribution of appropriated funds; and

"(C) including a 5-year plan for capital improvements.

"(2)(A) The Assistant Secretary shall establish a program, including the distribution of appropriated funds, for the operation and maintenance of education facilities. Such program shall include—

"(i) a method of computing the amount necessary for each education facility;

"(ii) similar treatment of all Bureau funded schools;

"(iii) a notice of an allocation of appropriated funds from the Director of the Office directly to the appropriate education line officers; and

"(iv) a system for the conduct of routine preventive maintenance.

"(B) The appropriate education line officers shall make arrangements for the maintenance of education facilities with the local supervisors of the Bureau maintenance personnel who are under the authority of the agency superintendent or area directors, respectively. The local supervisors of Bureau maintenance personnel shall take appropriate action to implement the decisions made by the appropriate education line officers, except that no funds under this part may be authorized for expenditure unless such appropriate education line officer is assured that the necessary maintenance has been, or will be, provided in a reasonable manner. Subject to the requirements of subsection (b) of this section, nothing in this Act shall be construed to require the provision of separate operations and maintenance personnel for the Office.

"(3) The requirements of this subsection shall be implemented not later than July 1, 1995.

"(e) Notwithstanding any other provision of law, the Director shall promulgate guidelines for the establishment of mechanisms for the acceptance of gifts and bequests for the use of, and benefit of, particular schools or designated Bureau operated education programs, including, where appropriate, the establishment and administration of trust funds. When a Bureau operated program is the beneficiary of such a gift or bequest, the Director shall make provisions for monitoring its use, and shall report to the appropriate committees of Congress the amount and terms of such gift or bequest, the use to which such gift or bequest is put, and any positive results achieved by such action.

"(f) For the purpose of this section the term 'sections' includes powers and duties.

#### SEC. 1127. ALLOTMENT FORMULA.

"(a)(1) The Secretary shall establish, by regulation adopted in accordance with section 1139, a formula for determining the minimum annual amount of funds necessary to sustain each Bureau funded school. In establishing such formula, the Secretary shall consider—

"(A) the number of eligible Indian students served and size of the school;

"(B) special cost factors, such as—

"(i) the isolation of the school;

"(ii) the need for special staffing, transportation, or educational programs;

"(iii) food and housing costs;

"(iv) maintenance and repair costs associated with the physical condition of the educational facilities;

"(v) special transportation and other costs of isolated and small schools;

"(vi) the costs of boarding arrangements, where determined necessary by a tribal governing body or designated local school board;

"(vii) costs associated with greater lengths of service by educational personnel; and

"(viii) special programs for gifted and talented students;

"(C) the cost of providing academic services which are at least equivalent to those provided by public schools in the State in which the school is located; and

"(D) such other relevant factors as the Secretary determines are appropriate.

"(2) Upon the establishment of the standards required by sections 1121 and 1122, the Secretary shall revise the formula established under this subsection to reflect the cost and funding standards so established. Prior to January 1, 1996, the Secretary shall review the formula established under this section and shall take such steps as may be necessary to increase the availability of counseling services for students in off-reservation boarding schools and other Bureau operated residential facilities. Concurrent with such action, the Secretary shall review the standards established under section 1121 to be certain that adequate provision is made for parental notification regarding, and consent for, such counseling services.

"(b) Notwithstanding any other provisions of law, Federal funds appropriated for the general local operation of Bureau funded schools shall be allotted pro rata in accordance with the formula established under subsection (a).

"(c)(1) For fiscal year 1990, and for each subsequent fiscal year, the Secretary shall adjust the formula established under subsection (a) to—

"(A) use a weighted unit of 1.2 for each eligible Indian student enrolled in the seventh and eighth grades of the school in considering the number of eligible Indian students served by the school;

"(B) consider a school with an enrollment of less than 50 eligible Indian students as having an average daily attendance of 50 eligible Indian students for purposes of implementing the adjustment factor for small schools; and

"(C) take into account the provision of residential services on a less than 9-month basis at a school when the school board and supervisor of the school determine that a less than 9-month basis will be implemented for the school year involved.

"(2)(A) The Secretary shall reserve for national school board training 0.2 percent of the funds appropriated for each fiscal year for distribution under this section. Such training shall be conducted through the same organizations through which, and in the same manner in which, the training was conducted in fiscal year 1992, except that the contracts for distribution of such funds shall require that such funds be distributed to the recipient organizations in a manner that assures the same pro rata share is made available for training for each school board in the system. If the contract for such training is not awarded before May 1 of each fiscal year, the contract under which such training was provided for the fiscal year preceding such fiscal year shall be renewed by the Secretary for such fiscal year. The agenda for the training sessions shall be established by the school boards through their regional or national organizations.

"(B) For each year in which the Secretary uses a weighted unit formula established under subsection (a) to fund Bureau schools, a Bureau school which generates less than 168 weighted units shall receive an additional 2 weighted units to defray school board activities.

"(C) From the funds allotted in accordance with the formula established under subsection (a) for each Bureau school, the local school board of such school may reserve an amount which does not exceed the greater of—

"(i) \$5,000, or

"(ii) the lesser of—

"(I) \$15,000, or

"(II) 1 percent of such allotted funds,

for school board activities for such school, including and notwithstanding any other provision of law, meeting expenses and the cost of membership in, and support of, organizations engaged in activities on behalf of Indian education.

"(3) The Secretary shall adjust the formula established under subsection (a) to use a weight-

ed unit of 2.0 for each eligible Indian student that—

"(A) is gifted and talented, and

"(B) is enrolled in the school on a full-time basis,

in considering the number of eligible Indian students served by the school.

"(4)(A) The Secretary shall adjust the formula established under subsection (a) to use a weighted unit of 0.25 for each eligible Indian student who is enrolled in a year-long credit course in an Indian or Native language as part of the regular curriculum of a school, in considering the number of eligible Indian students served by such school.

"(B) The adjustment required under subparagraph (A) shall be used for such school after—

"(i) the certification of the Indian or Native language curriculum by the school board of such school to the Secretary, together with an estimate of the number of full-time students expected to be enrolled in the curriculum in the second school year following the school year for which the certification is made; and

"(ii) the funds appropriated for allotment under this section are designated by the appropriations Act appropriating such funds as the amount necessary to implement such adjustment at such school without reducing allotments made under this section to any school by virtue of such adjustment.

"(d) The Secretary shall reserve from the funds available for distribution for each fiscal year under this section an amount which, in the aggregate, shall equal 1 percent of the funds available for such purpose for that fiscal year. Such funds shall be used, at the discretion of the Director of the Office, to meet emergencies and unforeseen contingencies affecting the education programs funded under this section. Funds reserved under this subsection may only be expended for education services or programs at a schoolsite (as defined in section 5204(c)(2) of the Tribally Controlled Schools Act of 1988). Funds reserved under this subsection shall remain available without fiscal year limitation until expended. However, the aggregate amount available from all fiscal years may not exceed 1 percent of the current year funds. Whenever the Secretary makes funds available under this subsection, the Secretary shall report such action to the appropriate committees of Congress within the annual budget submission.

"(e) Supplemental appropriations enacted to meet increased pay costs attributable to school level personnel shall be distributed under this section.

"(f) For the purpose of this section, the term 'eligible Indian student' means a student who—

"(1) is a member of or is at least a 1/4 degree Indian blood descendant of a member of an Indian tribe which is eligible for the special programs and services provided by the United States through the Bureau to Indians because of their status as Indians, and

"(2) resides on or near an Indian reservation or meets the criteria for attendance at a Bureau off-reservation boarding school.

"(g)(1) An eligible Indian student may not be charged tuition for attendance at a Bureau school or contract or grant school. A student attending a Bureau school under paragraph (2)(C) may not be charged tuition.

"(2) The Secretary may permit the attendance at a Bureau school of a student who is not an eligible Indian student if—

"(A) the Secretary determines that the student's attendance will not adversely affect the school's program for eligible Indian students because of cost, overcrowding, or violation of standards,

"(B) the school board consents,

"(C) the student is a dependent of a Bureau, Indian Health Service, or tribal government, employee who lives on or near the school site, or

"(D) a tuition is paid for the student that is not more than that charged by the nearest public school district for out-of-district students, is in addition to the school's allocation under this section.

"(3) The school board of a contract or grant school may permit students who are not eligible Indian students under this subsection to attend its contract school or grant school and any tuition collected for those students is in addition to funding under this section.

"(h) Notwithstanding any other provision of law, at the election of the school board of a Bureau school made at any time during the fiscal year, a portion equal to not more than 15 percent of the funds allocated with respect to a school under this section for any fiscal year shall remain available to the school for expenditure without fiscal year limitation. The Assistant Secretary shall take steps as may be necessary to implement this provision immediately.

"(i) Beginning with academic year 1994-1995, tuition for the out-of-State students boarding at the Richfield Dormitory in Richfield, Utah, who attend Sevier County high schools in Richfield, Utah, shall be paid from the Indian school equalization program funds authorized in this section and section 1130 at a rate not to exceed the amount per weighted student unit for that year for the instruction of such students. No additional administrative cost funds shall be added to the grant.

#### SEC. 1128. ADMINISTRATIVE COST GRANTS.

"(a)(1) The Secretary shall, subject to the availability of appropriated funds, provide grants to each tribe or tribal organization operating a contract school or grant school in the amount determined under this section with respect to the tribe or tribal organization for the purpose of paying the administrative and indirect costs incurred in operating contract or grant schools in order to—

"(A) enable tribes and tribal organizations operating such schools, without reducing direct program services to the beneficiaries of the program, to provide all related administrative overhead services and operations necessary to meet the requirements of law and prudent management practice, and

"(B) carry out other necessary support functions which would otherwise be provided by the Secretary or other Federal officers or employees, from resources other than direct program funds, in support of comparable Bureau operated programs.

"(2) Amounts appropriated to fund the grants provided under this section shall be in addition to, and shall not reduce, the amounts appropriated for the program being administered by the contract or grant school.

"(b)(1) The amount of the grant provided to each tribe or tribal organization under this section for each fiscal year shall be determined by applying the administrative cost percentage rate of the tribe or tribal organization to the aggregate of the Bureau elementary and secondary functions operated by the tribe or tribal organization for which funds are received from or through the Bureau. The administrative cost percentage rate determined under subsection (c) does not apply to other programs operated by the tribe or tribal organization.

"(2) The Secretary shall—

"(A) reduce the amount of the grant determined under paragraph (1) to the extent that payments for administrative costs are actually received by an Indian tribe or tribal organization under any Federal education program included in the direct cost base of the tribe or tribal organization, and

"(B) take such actions as may be necessary to be reimbursed by any other department or agency of the Federal Government for the portion of grants made under this section for the costs of

administering any program for Indians that is funded by appropriations made to such other department or agency.

"(c)(1) For purposes of this section, the administrative cost percentage rate for a contract or grant school for a fiscal year is equal to the percentage determined by dividing—

"(A) the sum of—

"(i) the amount equal to—

"(I) the direct cost base of the tribe or tribal organization for the fiscal year, multiplied by

"(II) the minimum base rate, plus

"(ii) the amount equal to—

"(I) the standard direct cost base, multiplied by

"(II) the maximum base rate, by

"(B) the sum of—

"(i) the direct cost base of the tribe or tribal organization for the fiscal year, plus

"(ii) the standard direct cost base.

"(2) The administrative cost percentage rate shall be determined to the  $\frac{1}{100}$  of a decimal point.

"(d)(1)(A) Funds received by a tribe or contract or grant school as grants under this section for tribal elementary or secondary educational programs may be combined by the tribe or contract or grant school into a single administrative cost account without the necessity of maintaining separate funding source accounting.

"(B) Indirect cost funds for programs at the school which share common administrative services with tribal elementary or secondary educational programs may be included in the administrative cost account described in subparagraph (A).

"(2) Funds received as grants under this section with respect to tribal elementary or secondary education programs shall remain available to the contract or grant school without fiscal year limitation and without diminishing the amount of any grants otherwise payable to the school under this section for any fiscal year beginning after the fiscal year for which the grant is provided.

"(3) Funds received as grants under this section for Bureau funded programs operated by a tribe or tribal organization under a contract or agreement shall not be taken into consideration for purposes of indirect cost underrecovery and overrecovery determinations by any Federal agency for any other funds, from whatever source derived.

"(4) In applying this section and section 105 of the Indian Self-Determination and Education Assistance Act with respect to an Indian tribe or tribal organization that—

"(A) receives funds under this section for administrative costs incurred in operating a contract or grant school or a school operated under the Tribally Controlled Schools Act of 1988, and

"(B) operates 1 or more other programs under a contract or grant provided under the Indian Self-Determination and Education Assistance Act,

the Secretary shall ensure that the Indian tribe or tribal organization is provided with the full amount of the administrative costs, and of the indirect costs, that are associated with operating the contract or grant school, a school operated under the Tribally Controlled Schools Act of 1988, and all of such other programs, except that funds appropriated for implementation of this section shall be used only to supply the amount of the grant required to be provided by this section.

"(e) For purposes of this section:

"(1)(A) The term 'administrative cost' means the costs of necessary administrative functions which—

"(i) the tribe or tribal organization incurs as a result of operating a tribal elementary or secondary educational program,

"(ii) are not customarily paid by comparable Bureau operated programs out of direct program funds, and

"(iii) are either—

"(I) normally provided for comparable Bureau programs by Federal officials using resources other than Bureau direct program funds, or

"(II) are otherwise required of tribal self-termination program operators by law or prudent management practice.

"(B) The term 'administrative cost' may include—

"(i) contract or grant (or other agreement) administration;

"(ii) executive, policy, and corporate leadership and decisionmaking;

"(iii) program planning, development, and management;

"(iv) fiscal, personnel, property, and procurement management;

"(v) related office services and record keeping; and

"(vi) costs of necessary insurance, auditing, legal, safety and security services.

"(2) The term 'Bureau elementary and secondary functions' means—

"(A) all functions funded at Bureau schools by the Office;

"(B) all programs—

"(i) funds for which are appropriated to other agencies of the Federal Government, and

"(ii) which are administered for the benefit of Indians through Bureau schools; and

"(C) all operation, maintenance, and repair funds for facilities and government quarters used in the operation or support of elementary and secondary education functions for the benefit of Indians, from whatever source derived.

"(3)(A) Except as otherwise provided in this subparagraph (B), the direct cost base of a tribe or tribal organization for the fiscal year is the aggregate direct cost program funding for all tribal elementary or secondary educational programs operated by the tribe or tribal organization during—

"(i) the second fiscal year preceding such fiscal year, or

"(ii) if such programs have not been operated by the tribe or tribal organization during the 2 preceding fiscal years, the first fiscal year preceding such fiscal year.

"(B) In the case of Bureau elementary or secondary education functions which have not previously been operated by a tribe or tribal organization under contract, grant, or agreement with the Bureau, the direct cost base for the initial year shall be the projected aggregate direct cost program funding for all Bureau elementary and secondary functions to be operated by the tribe or tribal organization during that fiscal year.

"(4) The term 'maximum base rate' means 50 percent.

"(5) The term 'minimum base rate' means 11 percent.

"(6) The term 'standard direct cost base' means \$600,000.

"(7) The term 'tribal elementary or secondary educational programs' means all Bureau elementary and secondary functions, together with any other Bureau programs or portions of programs (excluding funds for social services that are appropriated to agencies other than the Bureau and are expended through the Bureau, funds for major subcontracts, construction, and other major capital expenditures, and unexpended funds carried over from prior years) which share common administrative cost functions, that are operated directly by a tribe or tribal organization under a contract, grant, or agreement with the Bureau.

"(f)(1) Upon the date of enactment of the Indian Education Amendments of 1988, the Secretary shall—

"(A) conduct such studies as may be needed to establish an empirical basis for determining relevant factors substantially affecting the required administrative costs of tribal elementary

and secondary educational programs, using the formula set forth in subsection (c), and

"(B) conduct a study to determine—

"(i) a maximum base rate which ensures that the amount of the grants provided under this section will provide adequate (but not excessive) funding of the administrative costs of the smallest tribal elementary or secondary educational programs,

"(ii) a minimum base rate which ensures that the amount of the grants provided under this section will provide adequate (but not excessive) funding of the administrative costs of the largest tribal elementary or secondary educational programs, and

"(iii) a standard direct cost base which is the aggregate direct cost funding level for which the percentage determined under subsection (c) will—

"(I) be equal to the median between the maximum base rate and the minimum base rate, and

"(II) ensure that the amount of the grants provided under this section will provide adequate (but not excessive) funding of the administrative costs of tribal elementary or secondary educational programs closest to the size of the program.

"(2) The studies required under paragraph (1) shall—

"(A) be conducted in full consultation (in accordance with section 1131) with—

"(i) the tribes and tribal organizations that are affected by the application of the formula set forth in subsection (c), and

"(ii) all national and regional Indian organizations of which such tribes and tribal organizations are typically members;

"(B) be conducted onsite with a representative statistical sample of the tribal elementary or secondary educational programs under a contract entered into with a nationally reputable public accounting and business consulting firm;

"(C) take into account the availability of skilled labor, commodities, business and automatic data processing services, related Indian preference and Indian control of education requirements, and any other market factors found substantially to affect the administrative costs and efficiency of each such tribal elementary or secondary educational program studied in order to assure that all required administrative activities can reasonably be delivered in a cost effective manner for each such program, given an administrative cost allowance generated by the values, percentages, or other factors found in the studies to be relevant in such formula;

"(D) identify, and quantify in terms of percentages of direct program costs, any general factors arising from geographic isolation, or numbers of programs administered, independent of program size factors used to compute a base administrative cost percentage in such formula; and

"(E) identify any other incremental cost factors substantially affecting the costs of required administrative cost functions at any of the tribal elementary or secondary educational programs studied and determine whether the factors are of general applicability to other such programs, and (if so) how the factors may effectively be incorporated into such formula.

"(3) In carrying out the studies required under this subsection, the Secretary shall obtain the input of, and afford an opportunity to participate to, the Inspector General of the Department of the Interior.

"(4) Determinations described in paragraph (2)(C) shall be based on what is pragmatically possible to do at each location studied, given prudent management practice, irrespective of whether required administrative services were actually or fully delivered at these sites, or other services were delivered instead, during the period of the study.

"(5) Upon completion of the studies conducted under paragraph (1), but in no case later than October 1, 1989, the Secretary shall submit to the Congress a report on the findings of the studies, together with determinations based upon such findings that would affect the definitions of terms used in the formula that is set forth in subsection (c).

"(6) The Secretary shall include in the Bureau's justification for each appropriations request for each fiscal year beginning after fiscal year 1989, a projection of the overall costs associated with the formula set forth in subsection (c) for all tribal elementary or secondary educational programs which the Secretary expects to be funded in the fiscal year for which the appropriations are sought.

"(7) For purposes of this subsection, the size of tribal elementary or secondary educational programs is determined by the aggregate direct cost program funding level for all Bureau funded programs which share common administrative cost functions.

"(g)(1) There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out this section.

"(2) If the total amount of funds necessary to provide grants to tribes and tribal organizations in the amounts determined under subsection (b) for a fiscal year exceeds the amount of funds appropriated to carry out this section for such fiscal year, the Secretary shall reduce the amount of each grant determined under subsection (b) for such fiscal year by an amount that bears the same relationship to such excess as the amount of such grant determined under subsection (b) bears to the total of all grants determined under subsection (b) for all tribes and tribal organizations for such fiscal year.

"(h)(1) Notwithstanding any other provision of this section, the amount of the grants provided under this section for fiscal year 1989 shall—

"(A) in lieu of being determined under subsection (b), be determined for each tribal elementary or secondary educational program on the same basis that indirect costs were determined for such programs for fiscal year 1988, and

"(B) be subject to the provisions of subsection (d).

"(2) Notwithstanding any other provision of this section, the amount of the grant provided under this section for fiscal year 1990 with respect to each tribal elementary and secondary educational program that was operated by a tribe or tribal organization in fiscal year 1989 shall be equal to—

"(A) if the amount of the grant determined under subsection (b) for fiscal year 1990 with respect to such program exceeds the amount received by the tribe or tribal organization with respect to such program for administrative costs for fiscal year 1988 (or fiscal year 1989 if such program was not operated by the tribe or tribal organization during fiscal year 1988), the sum of—

"(i) such amount received, plus

"(ii)  $\frac{1}{3}$  of the excess of—

"(I) such amount determined under subsection (b), over

"(II) such amount received, or

"(B) if such amount received exceeds such amount determined under subsection (b), the excess of—

"(i) such amount received, over

"(ii) an amount equal to  $\frac{1}{3}$  of the excess of—

"(I) such amount received, over

"(II) such amount determined under subsection (b).

"(3) Notwithstanding any other provision of this section, the amount of the grants provided under this section for fiscal year 1991 with respect to each tribal elementary and secondary educational program that was operated by a

tribe or tribal organization in fiscal year 1989 shall be equal to—

"(A) if the amount of the grant determined under subsection (b) for fiscal year 1991 with respect to such program exceeds the amount received by the tribe or tribal organization with respect to such program for administrative costs for fiscal year 1990, the sum of—

"(i) such amount received, plus

"(ii)  $\frac{1}{2}$  of the excess of—

"(I) such amount determined under subsection (b), over

"(II) such amount received, or

"(B) if such amount received exceeds such amount determined under subsection (b), the excess of—

"(i) such amount received, over

"(ii) an amount equal to  $\frac{1}{2}$  of the excess of—

"(I) such amount received, over

"(II) such amount determined under subsection (b).

"(i) The provisions of this section shall also apply to those schools operating under the Tribally Controlled Schools Act of 1988.

#### "SEC. 1129. DIVISION OF BUDGET ANALYSIS.

"(a) Within 24 months of the date of enactment of the Improving America's Schools Act of 1994, the Secretary shall establish within the Office a Division of Budget Analysis (hereinafter referred to as the 'Division'). Such Division shall be under the direct supervision and control of the Director of the Office.

"(b) The Division shall have the capacity to conduct such studies, surveys, or other activities as are necessary to gather demographic information on Bureau-funded schools (current and future) and project the amount necessary to provide Indian students in such schools the educational program set forth in this part.

"(c) The Division shall prepare projections on such amounts, along with such other information as the Director of the Office shall require, for each fiscal year beginning after October 1, 1996. The Director of the Office and the Assistant Secretary for Indian Affairs shall use such reports when preparing their annual budget submissions.

#### "SEC. 1130. UNIFORM DIRECT FUNDING AND SUPPORT.

"(a)(1) Within six months after the date of enactment of the Improving America's Schools Act of 1994, the Secretary shall establish, by regulation adopted in accordance with section 1139, a system for the direct funding and support of all Bureau funded schools. Such system shall allot funds, in accordance with section 1127. All amounts appropriated for distribution under this section may be made available under paragraph (2).

"(2)(A) For the purpose of affording adequate notice of funding available pursuant to the allotments made by section 1127, amounts appropriated in an appropriation Act for any fiscal year shall become available for obligation by the affected schools on July 1 of the fiscal year in which such amounts are appropriated without further action by the Secretary, and shall remain available for obligation through the succeeding fiscal year.

"(B) The Secretary shall, on the basis of the amount appropriated in accordance with this paragraph—

"(i) publish, on July 1 of the fiscal year for which the funds are appropriated, allotments to each affected school made under section 1127 of 85 percent of such appropriation; and

"(ii) publish, not later than September 30 of such fiscal year, the allotments to be made under section 1127 of the remaining 15 percent of such appropriation, adjusted to reflect actual student attendance.

"(3)(A) Notwithstanding any law or regulation, the supervisor of a Bureau school may expend an aggregate of not more than \$35,000 of

the amount allotted the school under section 1127 to acquire supplies and equipment for the school without competitive bidding if—

"(i) the cost for any single item purchased does not exceed \$10,000;

"(ii) the school board approves the procurement;

"(iii) the supervisor certifies that the cost is fair and reasonable;

"(iv) the documents relating to the procurement executed by the supervisor or other school staff cite this paragraph as authority for the procurement; and

"(v) the transaction is documented in a journal maintained at the school clearly identifying when the transaction occurred, what was acquired and from whom, the prices paid, the quantities acquired, and any other information the supervisor or school board considers relevant.

"(B) The Director shall be responsible for determining the application of this paragraph, including the authorization of specific individuals to carry out this paragraph, and shall be responsible for the provision of guidelines on the use of this paragraph and adequate training on such guidelines.

"(4) If a sequestration order issued under the Balanced Budget and Emergency Deficit Control Act of 1985 reduces the amount of funds available for allotment under section 1127 for any fiscal year by more than 7 percent of the amount of funds available for allotment under such section during the preceding fiscal year—

"(A) the Secretary, notwithstanding any other law, may use—

"(i) funds appropriated for the operation of any Bureau school that is closed or consolidated, and

"(ii) funds appropriated for any program that has been curtailed at any Bureau school,

"(B) the Secretary may waive the application of the provisions of section 1121(h) with respect to the closure or consolidation of a school, or the curtailment of a program at a school, during such fiscal year if the funds described in clauses (i) and (ii) of subparagraph (A) with respect to such school are used to fund allotments made under section 1127 for such fiscal year.

"(b) In the case of all Bureau schools, allotted funds shall be expended on the basis of local financial plans which shall be prepared by the local school supervisor in active consultation with the local school board for each school, and the local school board for each school shall have the authority to ratify, reject, or amend such financial plan, and expenditures thereunder, and, on its own determination or in response to the supervisor of the school, to revise such financial plan to meet needs not foreseen at the time of preparation of the financial plan. The supervisor shall provide the appropriate union representative of the education employees with copies of proposed draft financial plans and all amendments or modifications thereto, at the same time such copies are submitted to the local school board. The supervisor of the school may appeal any such action of the local school board to the appropriate education line officer of the Bureau agency by filing a written statement describing the action and the reasons the supervisor believes such action should be overturned. A copy of such statement shall be submitted to the local school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the appropriate education line officer may, for good cause, overturn the action of the local school board. The appropriate line education officer shall transmit the determination of such appeal in the form of a written opinion to such board and to such supervisor identifying the reasons for overturning such action.

"(c) Funds for self-determination grants under section 103(a)(2) of the Indian Self-Determination and Education Assistance Act shall not be used for providing technical assistance and training in the field of education by the Bureau unless such services are provided in accordance with a plan, agreed to by the tribe or tribes affected and the Bureau, under which control of education programs is intended to be transferred to such tribe or tribes within a specific period of time negotiated under such agreement. The Secretary may approve applications for funding tribal divisions of education and the development of tribal codes of education from funds appropriated pursuant to section 104(a) of such Act.

"(d) In the exercise of its authority under this section, a local school board may request technical assistance and training from the Secretary, and the Secretary shall, to the greatest extent possible, provide such services, and make appropriate provisions in the budget of the Office for such services.

"(e)(1) A financial plan under subsection (b) for a school may include, at the discretion of the local administrator and the school board of such school, a provision for a summer program of academic and support services for students of the school. Any such program may include activities related to the prevention of alcohol and substance abuse. The Assistant Secretary of Indian Affairs shall provide for the utilization of any such school facility during any summer in which such utilization is requested.

"(2) Notwithstanding any other provision of law, funds authorized under the Act of April 16, 1934 (25 U.S.C. 452 et seq.) and this Act may be used to augment the services provided in each summer program at the option, and under the control, of the tribe or Indian controlled school receiving such funds.

"(3) The Assistant Secretary of Indian Affairs, acting through the Director of the Office, shall provide technical assistance and coordination for any program described in paragraph (1) and shall, to the extent possible, encourage the coordination of such programs with any other summer programs that might benefit Indian youth, regardless of the funding source or administrative entity of any such program.

"(f)(1) From funds allotted to a Bureau school under section 1127, the Secretary shall, if specifically requested by the tribal governing body (within the meaning of section 1121(k)), implement any cooperative agreement entered into between the tribe, the Bureau school board, and the local public school district which meets the requirements of paragraph (2) and involves the school. The tribe, the Bureau school board, and the local public school district shall determine the terms of the agreement. Such agreement may encompass coordination of all or any part of the following:

"(A) Academic program and curriculum, unless the Bureau school is currently accredited by a State or regional accrediting entity and would not continue to be so accredited.

"(B) Support services, including procurement and facilities maintenance.

"(C) Transportation.

"(2) Each agreement entered into pursuant to the authority provided in paragraph (1) shall confer a benefit upon the Bureau school commensurate with the burden assumed, though this requirement shall not be construed so as to require equal expenditures or an exchange of similar services.

"(g) Notwithstanding any other provision of law, where there is agreement on action between the superintendent and the school board of a Bureau funded school, the product or result of a project conducted in whole or in major part by a student may be given to that student upon the completion of such project.

"(h) Notwithstanding any other provision of law, funds received by a Bureau funded school under this title shall not be considered Federal funds for purposes of meeting a matching funds requirement in any Federal program.

#### "SEC. 1131. POLICY FOR INDIAN CONTROL OF INDIAN EDUCATION.

"(a) It shall be the policy of the Secretary and the Bureau, in carrying out the functions of the Bureau, to facilitate Indian control of Indian affairs in all matters relating to education.

"(b)(1) All actions under this Act shall be done with active consultation with tribes.

"(2) The consultation required under paragraph (1) means a process involving the open discussion and joint deliberation of all options with respect to potential issues or changes between the Bureau and all interested parties. During such discussions and joint deliberations, interested parties (including tribes and school officials) shall be given an opportunity to present issues including proposals regarding changes in current practices or programs which will be considered for future action by the Bureau. All interested parties shall be given an opportunity to participate and discuss the options presented or to present other alternatives, with the views and concerns of the interested parties given effect unless the Secretary determines, from information educed or presented by the interested parties during 1 or more of the discussions and deliberations, that there is a substantial reason for another course of action. The Secretary shall submit to any Member of Congress, within 18 days of the receipt of a written request by such Member, a written explanation of any decision made by the Secretary which is not consistent with the views of the interested parties.

#### "SEC. 1132. EDUCATION PERSONNEL.

"(a)(1) Chapter 51, subchapter III of chapter 53, and chapter 63 of title 5, United States Code, relating to classification, pay, and leave, respectively, and the sections of such title relating to the appointment, promotion, and removal of civil service employees, shall not apply to educators or to education positions (as defined in subsection (n)).

"(2) Paragraph (1) shall take effect 1 year after the date of enactment of this Act.

"(b) Not later than the effective date of subsection (a)(2), the Secretary shall prescribe regulations to carry out this section. Such regulations shall govern—

"(1) the establishment of education positions,

"(2) the establishment of qualifications for educators,

"(3) the fixing of basic compensation for educators and education positions,

"(4) the appointment of educators,

"(5) the discharge of educators,

"(6) the entitlement of educators to compensation,

"(7) the payment of compensation to educators,

"(8) the conditions of employment of educators,

"(9) the length of the school year applicable to education positions described in subsection (n)(1)(A),

"(10) the leave system for educators, and

"(11) such other matters as may be appropriate.

"(c)(1) In prescribing regulations to govern the qualifications of educators, the Secretary shall require—

"(A)(i) that lists of qualified and interviewed applicants for education positions be maintained in each agency and area office of the Bureau from among individuals who have applied at the agency or area level for an education position or who have applied at the national level and have indicated in such application an interest in working in certain areas or agencies; and

"(ii) that a list of qualified and interviewed applicants for education positions be maintained in the Office from among individuals who have applied at the national level for an education position and who have expressed interest in working in an education position anywhere in the United States;

"(B) that a local school board shall have the authority to waive on a case-by-case basis, any formal education or degree qualifications established by regulation pursuant to subsection (b)(2), in order for a tribal member to be hired in an education position to teach courses on tribal culture and language and that subject to subsection (d)(2)(A), a determination by a school board that such a person be hired shall be followed by the supervisor; and

"(C) that it shall not be a prerequisite to the employment of an individual in an education position at the local level that such individual's name appear on the national list maintained pursuant to paragraph (1)(A)(ii) or that such individual has applied at the national level for an education position.

"(2) The Secretary may authorize the temporary employment in an education position of an individual who has not met the certification standards established pursuant to regulations, if the Secretary determines that failure to do so would result in that position remaining vacant.

"(d)(1) In prescribing regulations to govern the appointment of educators, the Secretary shall require—

"(A)(i) that educators employed in a school (other than the supervisor of the school) shall be hired by the supervisor of the school unless there are no qualified applicants available, in which case the vacant position shall be filled at the national level from the list maintained pursuant to subsection (c)(1)(A)(ii);

"(ii) each school supervisor shall be hired by the education line officer of the agency office of the Bureau in which the school is located, and

"(iii) educators employed in an agency office of the Bureau shall be hired by the superintendent for education of the agency office;

"(B) that before an individual is employed in an education position in a school by the supervisor of a school (or, with respect to the position of supervisor, by the appropriate agency education line officer), the local school board for the school shall be consulted, and that subject to paragraph (2), a determination by the school board that such individual should or should not be so employed shall be followed by the supervisor (or with respect to the position of supervisor, by the agency superintendent for education); and

"(C) that before an individual may be employed in an education position at the agency level, the appropriate agency school board shall be consulted, and that, subject to paragraph (3), a determination by such school board that such individual should or should not be employed shall be followed by the agency superintendent for education.

"(2)(A) The supervisor of a school may appeal to the appropriate agency education line officer any determination by the local school board for the school that an individual be employed, or not be employed, in an education position in the school (other than that of supervisor) by filing a written statement describing the determination and the reasons the supervisor believes such determination should be overturned. A copy of such statement shall be submitted to the local school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the education line officer may, for good cause, overturn the determination of the local school board. The education line officer shall transmit the determination of such appeal in the form of a written opinion to such board

and to such supervisor identifying the reasons for overturning such determination.

"(B) The education line officer of an agency office of the Bureau may appeal to the Director of the Office any determination by the local school board for the school that an individual be employed, or not be employed, as the supervisor of a school by filing a written statement describing the determination and the reasons the supervisor believes such determination should be overturned. A copy of such statement shall be submitted to the local school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the Director may, for good cause, overturn the determination of the local school board. The Director shall transmit the determination of such appeal in the form of a written opinion to such board and to such education line officer identifying the reasons for overturning such determination.

"(3) The education line officer of an agency office of the Bureau may appeal to the Director of the Office any determination by the agency school board that an individual be employed, or not be employed, in an education position in such agency office by filing a written statement describing the determination and the reasons the supervisor believes such determination should be overturned. A copy of such statement shall be submitted to the agency school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the Director may, for good cause, overturn the determination of the agency school board. The Director shall transmit the determination of such appeal in the form of a written opinion to such board and to such education line officer identifying the reasons for overturning such determination.

"(4) Any individual who applies at the local level for an education position shall state on such individual's application whether or not such individual has applied at the national level for an education position in the Bureau. If such individual is employed at the local level, such individual's name shall immediately be forwarded to the Secretary, who shall, as soon as possible but in no event in more than 30 days, ascertain the accuracy of the statement made by such individual pursuant to the first sentence of this paragraph. If the individual's statement is found to have been false, such individual, at the Secretary's discretion, may be disciplined or discharged. If the individual had applied at the national level for an education position in the Bureau, the appointment of such individual at the local level shall be conditional for a period of 90 days, during which period the Secretary may appoint a more qualified individual (as determined by the Secretary) from the list maintained at the national level pursuant to subsection (c)(1)(A)(ii) to the position to which such individual was appointed.

"(5) Except as expressly provided, nothing in this section shall be construed as conferring upon local school boards, authority over, or control of, educators.

"(e)(1) In prescribing regulations to govern the discharge and conditions of employment of educators, the Secretary shall require—

"(A) that procedures be established for the rapid and equitable resolution of grievances of educators;

"(B) that no educator may be discharged without notice of the reasons therefore and opportunity for a hearing under procedures that comport with the requirements of due process; and

"(C) educators employed in Bureau schools shall be notified 60 days prior to the end of the school year whether their employment contract will be renewed for the following year.

"(2) The supervisor of a Bureau school may discharge (subject to procedures established under paragraph (1)(B) for cause (as determined under regulations prescribed by the Secretary) any educator employed in such school. Upon giving notice of proposed discharge to an educator, the supervisor involved shall immediately notify the local school board for the school of such action. A determination by the local school board that such educator shall not be discharged shall be followed by the supervisor. The supervisor shall have the right to appeal such action to the education line officer of the appropriate agency office of the Bureau. Upon such an appeal, the agency education line officer may, for good cause and in writing to the local school board, overturn the determination of the local school board with respect to the employment of such individual.

"(3) Each local school board for a Bureau school shall have the right—

"(A) to recommend to the supervisor of such school that an educator employed in the school be discharged; and

"(B) to recommend to the education line officer of the appropriate agency office of the Bureau and to the Director of the Office, that the supervisor of the school be discharged.

"(f)(1) Notwithstanding any provision of the Indian preference laws, such laws shall not apply in the case of any personnel action within the purview of this section respecting an applicant or employee not entitled to Indian preference if each tribal organization concerned grants, in writing, a waiver of the application of such laws with respect to such personnel action, if such a waiver is in writing deemed to be a necessity by the tribal organization, except that this paragraph shall in no way relieve the Bureau of the Bureau's responsibility to issue timely and adequate announcements and advertisements concerning any such personnel action if such action is intended to fill a vacancy (no matter how such vacancy is created).

"(2) For purposes of this subsection, the term 'tribal organization' means—

"(A) the recognized governing body of any Indian tribe, band, nation, pueblo, or other organized community, including a Native village (as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c); 85 Stat. 688)); or

"(B) in connection with any personnel action referred to in this subsection, any local school board as defined in section 1146, and which has been delegated by such governing body the authority to grant a waiver under such subsection with respect to such personnel action.

"(3) The term 'Indian preference laws' means section 12 of the Act of June 18, 1934 (25 U.S.C. 472; 48 Stat. 986) or any other provision of law granting a preference to Indians in promotions and other personnel actions, except that such term shall not be considered to include section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)).

"(g) Subject to the authority of the Office of Personnel Management to determine finally the applicability of chapter 51 of title 5, United States Code, to specific positions and employees in the executive branch, the Secretary shall determine in accordance with subsection (a)(1) the applicability or inapplicability of such chapter to positions and employees in the Bureau.

"(h)(1)(A) Except as otherwise provided in this section, the Secretary shall fix the basic compensation or annual salary rate for educators and education positions at rates comparable to the rates in effect under the General Schedule for individuals with comparable qualifications, and holding comparable positions, to whom chapter 51 of title 5, United States Code, is applicable or on the basis of the Federal Wage System schedule in effect for the locality.

"(B) By not later than October 28, 1988, the Secretary shall establish, for contracts for the 1991-1992 academic year, and thereafter, the rates of basic compensation, or annual salary rates, for the positions of teachers and counselors (including dormitory counselors and home-living counselors) at the rates of basic compensation applicable (on the date of enactment of such Amendments and thereafter) to comparable positions in overseas schools under the Defense Department Overseas Teachers Pay and Personnel Practices Act, unless the Secretary establishes such rates within such 6-month period through collective bargaining with the appropriate union representative of the education employees that is recognized by the Bureau.

"(C) By not later than October 28, 1988, the Secretary shall establish the rates of basic compensation or annual salary rates for the positions of teachers and counselors (including dormitory and home-living counselors)—

"(i) for contracts for the 1989-1990 academic year, at rates which reflect 1/5 of the changes in the rates applicable to such positions on April 28, 1988, that must be made to conform the rates to the rates established under subparagraph (B) for such positions for contracts for the 1991-1992 academic year, and

"(ii) for contracts for the 1990-1991 academic year, at rates which reflect 2/3 of such changes.

"(D) The establishment of rates of basic compensation and annual salary rates by the Secretary under subparagraphs (B) and (C) shall not preclude the use of regulations and procedures used by the Bureau before the enactment of the Indian Education Amendments of 1988 in making determinations regarding promotions and advancements through levels of pay that are based on the merit, education, experience, or tenure of the educator.

"(E)(i) Except as provided in clause (ii), the establishment of rates of basic compensation and annual salary rates by the Secretary under subparagraphs (B) and (C) shall not affect the continued employment or compensation of an educator who was employed in an education position on October 31, 1979, and who did not make the election under paragraph (2) of subsection (o).

"(ii) Any individual described in clause (i) may, during the 5-year period beginning on the date on which the Secretary establishes rates of basic compensation and annual salary rates under subparagraph (B), make an irrevocable election to have the basic compensation rate or annual salary rate of such individual determined in accordance with this paragraph.

"(iii) If an individual makes the election described in clause (ii), such election shall not affect the application to the individual of the same retirement system and leave system that applies to the individual during the fiscal year preceding the fiscal year in which such election is made, except that the individual must use leave accrued during a contract period by the end of that contract period.

"(F) The President shall include with the budget submitted under section 1105 of title 31, United States Code, for each of the fiscal years 1990, 1991, and 1992 a written statement by the Secretary which specifies—

"(i) the amount of funds the Secretary needs to pay basic compensation and the annual salaries of educators for such fiscal year, and

"(ii) the amount of funds the Secretary estimates would be needed to pay basic compensation and the annual salaries of educators for such fiscal year if the amendments made to this paragraph by the Indian Education Amendments of 1988 had not been enacted.

"(2) Each educator employed in an education position in Alaska shall be paid a cost-of-living allowance equal to 25 percent of the rate of

basic compensation to which such educator is entitled.

"(3)(A) The Secretary may pay a postdifferential not to exceed 25 percent of the rate of basic compensation, on the basis of conditions of environment or work which warrant additional pay as a recruitment and retention incentive.

"(B)(i) Upon the request of the supervisor and the local school board of a Bureau school, the Secretary shall grant the supervisor of the school authorization to provide 1 or more post differentials under subparagraph (A) unless the Secretary determines for clear and convincing reasons (and advises the board in writing of those reasons) that certain of the requested post differentials should be disapproved or decreased because there is no disparity of compensation for the involved employees or positions in the Bureau school, as compared with the nearest public school, that is either—

"(I) at least 5 percent, or

"(II) less than 5 percent and affects the recruitment or retention of employees at the school.

"(ii) The request under clause (i) shall be deemed granted as requested at the end of the 60th day after the request is received in the Central Office of the Bureau unless before that time the request is approved, approved with modification, or disapproved by the Secretary.

"(iii) The Secretary or the supervisor of a Bureau school may discontinue or decrease a post differential authorized by reason of this subparagraph at the beginning of a school year after either—

"(I) the local school board requests that such differential be discontinued or decreased, or

"(II) the Secretary or the supervisor determines for clear and convincing reasons (and advises the board in writing of those reasons) that there is no disparity of compensation that would affect the recruitment or retention of employees at the school after the differential is discontinued or decreased.

"(iv) On or before February 1 of each year, the Secretary shall submit to Congress a report describing the requests and grants of authority under this subparagraph during the previous fiscal year and listing the positions contracted under those grants of authority.

"(i) Any individual—

"(1) who on the date of enactment of this Act is holding a position which is determined under subsection (f) to be an education position and who elects under subsection (o)(2) to be covered under the provisions of this section, or

"(2) who is an employee of the Federal Government or the municipal government of the District of Columbia and is transferred, promoted, or reappointed, without break in service, from a position under a different leave system to an education position,

shall be credited for the purpose of the leave system provided under regulations prescribed pursuant to subsection (b)(10), with the annual and sick leave to such individual's credit immediately before the effective date of such election, transfer, promotion, or reappointment.

"(j) Upon termination of employment with the Bureau, any annual leave remaining to the credit of an individual within the purview of this section shall be liquidated in accordance with sections 5551(a) and 6306 of title 5, United States Code, except that leave earned or accrued under regulations prescribed pursuant to subsection (b)(10) shall not be so liquidated.

"(k) In the case of any educator who is transferred, promoted, or reappointed, without break in service, to a position in the Federal Government under a different leave system, any remaining leave to the credit of such person earned or credited under the regulations prescribed pursuant to subsection (b)(10) shall be

transferred to such person's credit in the employing agency on an adjusted basis in accordance with regulations which shall be prescribed by the Office of Personnel Management.

"(l) An educator who voluntarily terminates employment with the Bureau before the expiration of the existing employment contract between such educator and the Bureau shall not be eligible to be employed in another education position in the Bureau during the remainder of the term of such contract.

"(m) In the case of any educator employed in an education position described in subsection (n)(1)(A) who—

"(1) is employed at the close of a school year,

"(2) agrees in writing to serve in such a position for the next school year, and

"(3) is employed in another position during the recess period immediately preceding such next school year, or during such recess period receives additional compensation referred to in section 5533 of title 5, United States Code, relating to dual compensation, shall not apply to such educator by reason of any such employment during a recess period for any such receipt of additional compensation.

"(n) For the purpose of this section—

"(1) The term 'education position' means a position in the Bureau the duties and responsibilities of which—

"(A) are performed on a school-year basis principally in a Bureau school and involve—

"(i) classroom or other instruction or the supervision or direction of classroom or other instruction;

"(ii) any activity (other than teaching) which requires academic credits in educational theory and practice equal to the academic credits in educational theory and practice required for a bachelor's degree in education from an accredited institution of higher education;

"(iii) any activity in or related to the field of education notwithstanding that academic credits in educational theory and practice are not a formal requirement for the conduct of such activity; or

"(iv) support services at, or associated with, the site of the school; or

"(B) are performed at the agency level of the Bureau and involve the implementation of education-related programs other than the position for agency superintendent for education.

"(2) The term 'educator' means an individual whose services are required, or who is employed, in an education position.

"(o)(1) Subsections (a) through (n) of this section apply to an educator hired after November 1, 1979 (and to an educator who elected application under paragraph (2)) and to the position in which such individual is employed. Subject to paragraph (2), the enactment of this Act shall not affect the continued employment of an individual employed on October 31, 1979 in an education position, or such individual's right to receive the compensation attached to such position.

"(2) Any individual employed in an education position on October 31, 1979, may, not later than November 1, 1983, make an irrevocable election to be covered under the provisions of subsection (a) through (n) of this section.

"(p)(1) An educator who was employed in an education position on October 31, 1979, who was eligible to make an election under paragraph (2) of subsection (o) at that time, and who did not make the election under paragraph (2) of subsection (o), may not be placed on furlough (within the meaning of section 7511(a)(5) of title 5, United States Code) without the consent of such educator for an aggregate of more than 4 weeks within the same calendar year, unless—

"(A) the supervisor, with the approval of the local school board (or of the education line officer upon appeal under paragraph (2)), of the

Bureau school at which such educator provides services determines that a longer period of furlough is necessary due to an insufficient amount of funds available for personnel compensation at such school, as determined under the financial plan process as determined under section 1130(b) of this Act, and

"(B) all educators (other than principals and clerical employees) providing services at such Bureau school are placed on furloughs of equal length, except that the supervisor, with the approval of the local school board (or of the agency education line officer upon appeal under paragraph (2)), may continue 1 or more educators in pay status if—

"(i) such educators are needed to operate summer programs, attend summer training sessions, or participate in special activities including curriculum development committees; and

"(ii) such educators are selected based upon such educator's qualifications, after public notice of the minimum qualifications reasonably necessary and without discrimination as to supervisory, nonsupervisory, or other status of the educators who apply.

"(2) The supervisor of a Bureau school may appeal to the appropriate agency education line officer any refusal by the local school board to approve any determination of the supervisor that is described in paragraph (1)(A) by filing a written statement describing the determination and the reasons the supervisor believes such determination should be approved. A copy of such statement shall be submitted to the local school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the education line officer may, for good cause, approve the determination of the supervisor. The educational line officer shall transmit the determination of such appeal in the form of a written opinion to such local school board and to the supervisor identifying the reasons for approving such determination.

#### "SEC. 1133. MANAGEMENT INFORMATION SYSTEM.

"The Secretary shall establish within the Office, within 1 year after the date of the enactment of the Indian Education Amendments of 1984, a computerized management information system, which shall provide information to the Office. Such information shall include—

- "(1) student enrollment;
- "(2) curriculum;
- "(3) staff;
- "(4) facilities;
- "(5) community demographics;
- "(6) student assessment information; and
- "(7) information on the administrative and program costs attributable to each Bureau program, divided into discreet elements.

#### "SEC. 1134. BUREAU EDUCATION POLICIES.

"Within 180 days of the date of enactment of this Act, the Secretary shall develop, publish in the Federal Register, and submit to all agency and area offices of the Bureau, all tribal governments, and the appropriate committees of the Congress, a draft set of education policies, procedures, and practices for education-related action of the Bureau. The Secretary shall, within 1 year of the date of enactment of this Act, provide that such uniform policies, procedures, and practices shall be finalized and promulgated. Thereafter, such policies, procedures, and practices and their periodic revisions, shall serve as the foundation for future Bureau actions in education.

#### "SEC. 1135. UNIFORM EDUCATION PROCEDURES AND PRACTICES.

"The Secretary shall cause the various divisions of the Bureau to formulate uniform procedures and practices with respect to such concerns of those divisions as relate to education, and shall report such practices and procedures to the Congress.

#### "SEC. 1136. RECRUITMENT OF INDIAN EDUCATORS.

"The Secretary shall institute a policy for the recruitment of qualified Indian educators and a detailed plan to promote employees from within the Bureau. Such plan shall include opportunities for acquiring work experience prior to actual work assignment.

#### "SEC. 1137. ANNUAL REPORT.

"(a) The Secretary shall submit to each appropriate committee of the Congress a detailed annual report on the state of education within the Bureau and any problems encountered in the field of education during the year. Such report shall contain suggestions for improving the Bureau educational system and increasing local Indian control of such system. Such report shall also include the current status of tribally controlled community colleges. The annual budget submission for the Bureau's education programs shall, among other things, include—

"(1) information on the funds provided previously private schools under section 208 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458d) and recommendations with respect to the future use of such funds;

"(2) the needs and costs of operation and maintenance of tribally controlled community colleges eligible for assistance under the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801 et seq.) and recommendations with respect to meeting such needs and costs; and

"(3) the plans required by section 1121(g) and 1122(c), and 1125(b), of this Act.

"(b) The Inspector General of the Department of the Interior shall establish a system to ensure that financial and compliance audits are conducted of each Bureau school at least once in every three years. Audits of Bureau schools shall be based upon the extent to which such school has complied with its local financial plan under section 1129.

#### "SEC. 1138. RIGHTS OF INDIAN STUDENTS.

"Within six months of the date of enactment of this Act, the Secretary shall prescribe such rules and regulations as are necessary to ensure the constitutional and civil rights of Indian students attending Bureau schools, including such students' right to privacy under the laws of the United States, such students' right to freedom of religion and expression and such students' right to due process in connection with disciplinary actions, suspensions, and expulsions.

#### "SEC. 1139. REGULATIONS.

"Regulations required to be adopted under sections 1126 through 1138 and any revisions of the standards developed under section 1121 or 1122 shall be deemed rules of general applicability prescribed for the administration of an applicable program for the purposes of section 437 of the General Education Provisions Act and shall be promulgated, submitted for congressional review, and take effect in accordance with the provisions of such section. Such regulations shall contain, immediately following each substantive provision of such regulations, citations to the particular section or sections of statutory law or other legal authority upon which such provision is based.

#### "SEC. 1140. VOLUNTARY SERVICES.

"Notwithstanding section 1342 of title 31, United States Code, the Secretary may, subject to the approval of the local school board concerned, accept voluntary services on behalf of Bureau schools. Nothing in this title shall be construed to require Federal employees to work without compensation or to allow the use of volunteer services to displace or replace Federal employees. An individual providing volunteer services under this section is a Federal employee only for purposes of chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.

#### "SEC. 1141. PRORATION OF PAY.

"(a) Notwithstanding any other provision of law, including laws relating to dual compensation, the Secretary, at the election of the employee, shall prorate the salary of an employee employed in an education position for the academic school year over the entire 12-month period. Each educator employed for the academic school year shall annually elect to be paid on a 12-month basis or for those months while school is in session. No educator shall suffer a loss of pay or benefits, including benefits under unemployment or other Federal or federally assisted programs, because of such election.

"(b) During the course of such year the employee may change election once.

"(c) That portion of the employee's pay which would be paid between academic school years may be paid in lump sum at the election of the employee.

"(d) For the purposes of this section the terms 'educator' and 'education position' have the meaning contained in paragraphs (1) and (2) of section 1132(n). This section applies to those individuals employed under the provisions of section 1132 of this title or title 5, United States Code.

#### "SEC. 1142. EXTRACURRICULAR ACTIVITIES.

"(a) Notwithstanding any other provision of law, the Secretary may provide, for each Bureau area, a stipend in lieu of overtime premium pay or compensatory time off. Any employee of the Bureau who performs additional activities to provide services to students or otherwise support the school's academic and social programs may elect to be compensated for all such work on the basis of the stipend. Such stipend shall be paid as a supplement to the employee's base pay.

"(b) If an employee elects not to be compensated through the stipend established by this section, the appropriate provisions of title 5, United States Code, shall apply.

"(c) This section applies to all Bureau employees, whether employed under section 1132 of this title or title 5, United States Code.

#### "SEC. 1143. EARLY CHILDHOOD DEVELOPMENT PROGRAM.

"(a) The Secretary shall provide grants to tribes, tribal organizations, and consortia of tribes and tribal organizations to fund early childhood development programs that are operated by such tribes, organizations, or consortia.

"(b)(1) The total amount of the grants provided under subsection (a) with respect to each tribe, tribal organization, or consortium of tribes or tribal organizations for each fiscal year shall be equal to the amount which bears the same relationship to the total amount appropriated under the authority of subsection (f) for such fiscal year (less amounts provided under subsection (e)) as—

"(A) the total number of children under 6 years of age who are members of—

"(i) such tribe,

"(ii) the tribe that authorized such tribal organization, or

"(iii) any tribe that—

"(I) is a member of such consortium, or

"(II) authorizes any tribal organization that is a member of such consortium, bears to

"(B) the total number of all children under 6 years of age who are members of any tribe that—

"(i) is eligible to receive funds under subsection (a),

"(ii) is a member of a consortium that is eligible to receive such funds, or

"(iii) authorizes a tribal organization that is eligible to receive such funds.

"(2) No grant may be provided under subsection (a)—

"(A) to any tribe that has less than 500 members,

"(B) to any tribal organization which is authorized—

"(i) by only 1 tribe that has less than 500 members, or

"(ii) by 1 or more tribes that have a combined total membership of less than 500 members, or

"(C) to any consortium composed of tribes, or tribal organizations authorized by tribes, that have a combined total tribal membership of less than 500 members.

"(c)(1) A grant may be provided under subsection (a) to a tribe, tribal organization, or consortia of tribes and tribal organizations only if the tribe, organization or consortia submits to the Secretary an application for the grant at such time and in such form as the Secretary shall prescribe.

"(2) Applications submitted under paragraph (1) shall set forth the early childhood development program that the applicant desires to operate.

"(d) The early childhood development programs that are funded by grants provided under subsection (a)—

"(1) shall coordinate existing programs and may provide services that meet identified needs of parents and children under 6 years of age which are not being met by existing programs, including—

"(A) prenatal care,

"(B) nutrition education,

"(C) health education and screening,

"(D) educational testing, and

"(E) other educational services,

"(2) may include instruction in the language, art, and culture of the tribe, and

"(3) shall provide for periodic assessment of the program.

"(e) The Secretary shall, out of funds appropriated under the authority of subsection (f), include in the grants provided under subsection (a) amounts for administrative costs incurred by the tribe or tribal organization in establishing and maintaining the early childhood development program.

"(f) For the purpose of carrying out the provisions of this section, there are authorized to be appropriated \$10,000,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996, 1997, 1998, and 1999.

#### "SEC. 1144. TRIBAL DEPARTMENTS OF EDUCATION.

"(a) Subject to the availability of appropriations, the Secretary shall provide grants and technical assistance to tribes for the development and operation of tribal departments of education for the purpose of planning and coordinating all educational programs of the tribe.

"(b) Grants provided under this section shall—

"(1) be based on applications from the governing body of the tribe,

"(2) reflect factors such as geographic and population diversity,

"(3) facilitate tribal control in all matters relating to the education of Indian children on Indian reservations and on former Indian reservations in Oklahoma,

"(4) provide for the development of coordinated educational programs on Indian reservations (including all preschool, elementary, secondary, and higher or vocational educational programs funded by tribal, Federal, or other sources) by encouraging tribal administrative support of all Bureau funded educational programs as well as encouraging tribal cooperation and coordination with all educational programs receiving financial support from State agencies, other Federal agencies, or private entities,

"(5) provide for the development and enforcement of tribal educational codes, including tribal educational policies and tribal standards applicable to curriculum, personnel, students, facilities, and support programs, and

"(6) otherwise comply with regulations for grants under section 103(a) of the Indian Self-

Determination and Educational Assistance Act (25 U.S.C. 450h) that are in effect on the date application for such grants are made.

"(c)(1) In approving and funding applications for grants under this section, the Secretary shall give priority to any application that—

"(A) includes assurances from the majority of Bureau funded schools located within the boundaries of the reservation of the applicant that the tribal department of education to be funded under this section will provide coordinating services and technical assistance to all of such schools, including the submission to each applicable agency of a unified application for funding for all of such schools which provides that—

"(i) no administrative costs other than those attributable to the individual programs of such schools will be associated with the unified application, and

"(ii) the distribution of all funds received under the unified application will be equal to the amount of funds provided by the applicable agency to which each of such schools is entitled under law,

"(B) includes assurances from the tribal governing body that the tribal department of education funded under this section will administer all contracts or grants (except those covered by the other provisions of this title and the Tribally Controlled Community College Assistance Act of 1978) for education programs administered by the tribe and will coordinate all of the programs to the greatest extent possible,

"(C) includes assurances for the monitoring and auditing by or through the tribal department of education of all education programs for which funds are provided by contract or grant to ensure that the programs meet the requirements of law, and

"(D) provides a plan and schedule for—

"(i) the assumption over the term of the grant by the tribal department of education of all assets and functions of the Bureau agency office associated with the tribe, insofar as those responsibilities relate to education, and

"(ii) the termination by the Bureau of such operations and office at the time of such assumption,

except that when mutually agreeable between the tribal governing body and the Assistant Secretary, the period in which such assumption is to occur may be modified, reduced, or extended after the initial year of the grant.

"(2) Subject to the availability of appropriated funds, grants provided under this section shall be provided for a period of 3 years and the grant may, if performance by the grantee is satisfactory to the Secretary, be renewed for additional 3-year terms.

"(d) The Secretary shall not impose any terms, conditions, or requirements on the provision of grants under this section that are not specified in this section.

"(e) For the purpose of carrying out the provisions of this section, there are authorized to be appropriated \$2,000,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996, 1997, 1998, and 1999.

#### "SEC. 1145. PAYMENTS.

"(a)(1) Except as otherwise provided in this subsection, the Secretary shall make payments to grantees under this part in 2 payments—

"(A) one payment to be made not later than July 15 of each year in an amount equal to one-half of the amount which the grantee was entitled to receive during the preceding academic year, and

"(B) the second payment, consisting of the remainder to which the grantee is entitled for the academic year, shall be made not later than December 1 of each year.

"(2) For any school for which no payment was made from Bureau funds in the preceding

academic year, full payment of the amount computed for the first academic year of eligibility under this part shall be made not later than December 1 of the academic year.

"(3) With regard to funds for grantees that become available for obligation on October 1 of the fiscal year for which such funds are appropriated, the Secretary shall make payments to grantees not later than December 1 of the fiscal year.

"(4) The provisions of chapter 39 of title 31, United States Code, shall apply to the payments required to be made by paragraphs (1), (2), and (3) of this subsection.

#### "SEC. 1146. DEFINITIONS.

"For the purpose of this part, unless otherwise specified—

"(1) the term 'agency school board' means a body, the members of which are appointed by the school boards of the schools located within such agency, and the number of such members shall be determined by the Secretary in consultation with the affected tribes, except that, in agencies serving a single school, the school board of such school shall fulfill these duties;

"(2) the term 'Bureau' means the Bureau of Indian Affairs of the Department of the Interior;

"(3) the term 'Bureau funded school' means—

"(A) a Bureau school;

"(B) a contract school; or

"(C) a school for which assistance is provided under the Tribally Controlled Schools Act of 1988;

"(4) the term 'Bureau school' means a Bureau operated elementary or secondary day or boarding school or a Bureau operated dormitory for students attending a school other than a Bureau school;

"(5) the term 'contract or grant school' means an elementary or secondary school or a dormitory which receives financial assistance for its operation under a contract, grant, or agreement with the Bureau under section 102, 103(a), or 208 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f, 450h(a), and 458d) or under the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2504);

"(6) the term 'education line officer' means education personnel under the supervision of the Director, whether located in central, area, or agency offices;

"(7) the term 'financial plan' means a plan of services to be provided by each Bureau school;

"(8) the term 'Indian organization' means any group, association, partnership, corporation, or other legal entity owned or controlled by a federally recognized Indian tribe or tribes, or a majority of whose members are members of federally recognized Indian tribes;

"(9) the term 'local educational agency' means a board of education or other legally constituted local school authority having administrative control and direction of free public education in a county, township, independent, or other school district located within a State, and includes any State agency which directly operates and maintains facilities for providing free public education;

"(10) the term 'local school board', when used with respect to a Bureau school, means a body chosen in accordance with the laws of the tribe to be served or, in the absence of such laws, elected by the parents of the Indian children attending the school, except that in schools serving a substantial number of students from different tribes, the members shall be appointed by the governing bodies of the tribes affected, and the number of such members shall be determined by the Secretary in consultation with the affected tribes;

"(11) the term 'Office' means the Office of Indian Education Programs within the Bureau;

"(12) the term 'Secretary' means the Secretary of the Interior;

"(13) the term 'supervisor' means the individual in the position of ultimate authority at a Bureau school; and

"(14) the term 'tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1801 et seq.) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians."

**SEC. 382. TRIBALLY CONTROLLED SCHOOLS ACT OF 1988.**

(a) **NEW CONSTRUCTION.**—The second sentence of paragraph (4) of section 5205(b) of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2504(b)(4)) is amended by striking "were received." and inserting "were received, except that a school receiving a grant under this part for facilities improvement and repair may use such grant funds for new construction if the tribal government or other organization provides funding for the new construction equal to at least one-fourth of the total cost of such new construction."

(b) **COMPOSITION OF GRANTS.**—Subsection (b) of section 5205 of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2504(b)) is further amended by adding at the end the following new paragraph:

"(5) If the Secretary fails to make a determination within 180 days of a request filed by an Indian tribe or tribal organization to include in such tribe or organization's grant the funds described in subsection (a)(2), the Secretary shall be deemed to have approved such request and the Secretary shall immediately amend the grant accordingly. Such tribe or organization may enforce its rights under subsection (a)(2) and this paragraph, including any denial of or failure to act on such tribe or organization's request, pursuant to the disputes authority described in section 5209(e)."

(c) **PAYMENTS.**—Subsection (a) of section 5208 of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2507(a)) is amended to read as follows:

"(a) **PAYMENTS.**—  
 "(1) Except as otherwise provided in this subsection, the Secretary shall make payments to grantees under this part in 2 payments, of which—

"(A) the first payment shall be made not later than July 15 of each year in an amount equal to one-half of the amount which the grantee was entitled to receive during the preceding academic year; and

"(B) the second payment, consisting of the remainder to which the grantee is entitled for the academic year, shall be made not later than December 1 of each year.

"(2) For any school for which no payment under this part was made from Bureau funds in the preceding academic year, full payment of the amount computed for the first academic year of eligibility under this part shall be made not later than December 1 of the academic year.

"(3) With regard to funds for grantees that become available for obligation on October 1 of the fiscal year for which such funds are appropriated, the Secretary shall make payments to grantees not later than December 1 of the fiscal year.

"(4) The provisions of chapter 39 of title 31, United States Code, shall apply to the payments required to be made by paragraphs (1), (2), and (3).

"(5) Paragraphs (1), (2), and (3) shall be subject to any restriction on amounts of payments under this part that are imposed by a continuing resolution or other Act appropriating the funds involved."

(d) **APPLICABILITY.**—Subsection (a) of section 5209 of the Tribally Controlled Schools Act of

1988 (25 U.S.C. 2508(a)) is amended to read as follows:

"(a) **CERTAIN PROVISIONS TO APPLY TO GRANTS.**—All provisions of section 5, 6, 7, 104, 105(f), 106(f), 109, and 111 of the Indian Self-Determination and Education Assistance Act, except those provisions relating to indirect costs and length of contract, shall apply to grants provided under this part.

(e) **EXCEPTIONS, PROBLEMS, AND DISPUTES.**—Subsection (e) of section 5209 of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2508(e)) is amended—

(1) by striking "the amount of a grant under section 5205 (and the amount of any funds referred to in that section), and payments to be made under section 5208 of this Act," and inserting "a grant authorized to be made pursuant to this part or any amendment to such grant";

(2) by striking "the amount of, or payment of, the administrative grant" and inserting "an administrative cost grant"; and

(3) by adding at the end the following new sentence: "The Equal Access to Justice Act shall apply to administrative appeals filed after September 8, 1988, by grantees regarding a grant under this part, including an administrative cost grant."

**SEC. 383. ENDOWMENT FUNDS.**

Section 302 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1832) is amended—

(1) in subsection (a), by striking "section 333" and inserting in lieu thereof "section 331"; and

(2) in subsection (b)—

(A) by amending paragraph (1) to read as follows:

"(1) provides for the investment and maintenance of a trust fund, the corpus and earnings of which shall be invested in the same manner as funds are invested under paragraph (2) of section 331(c) of the Higher Education Act of 1965, except that for purposes of this paragraph, the term 'trust fund' means a fund established by an institution of higher education or by a foundation that is exempt from taxation and is maintained for the purpose of generating income for the support of the institution, and may include real estate"; and

(B) in paragraph (3) by striking "same" the first time such term appears.

**SEC. 384. GOALS 2000: EDUCATE AMERICA ACT.**

(a) Section 315 of the Goals 2000: Educate America Act (20 U.S.C. 5895) is amended—

(1) by amending subsection (c) to read as follows:

"(c) **BUREAU OF INDIAN AFFAIRS COST ANALYSIS AND STUDIES.**—

"(1) **IN GENERAL.**—The Secretary of the Interior shall reserve from the funds received pursuant to section 304(a)(1)(B) in the first and second fiscal year for which the Secretary of the Interior receives such funds an amount not to exceed \$500,000 for each such year to provide, through a contract executed, after open solicitation, with an organization or institution having extensive experience in school finance, for an analysis of—

"(A) the costs associated with meeting the academic, home-living, and residential standards of the Bureau for each Bureau funded school and annual projections of such costs; and

"(B) the feasibility and desirability of changing the method of financing for Bureau funded schools from the weighted student unit formula method in effect on the date of enactment of this Act to a school-based budget system or other alternative system of financial support.

"(2) **COST ANALYSIS PURPOSE.**—The purpose of the cost analysis provided for in paragraph (1)(A) shall be to provide the Bureau and the panel described in subsection (b)(4) with base-

line data regarding the current state of operations funded by the Bureau and to provide a framework for the implementation of opportunity-to-learn standards or strategies. Such analysis shall evaluate the costs of providing a program in each school operated or supported by the Bureau for the next succeeding academic year and shall be based on—

"(A) the standards either published in the Federal Register and effective for schools funded by the Bureau on the date of enactment of the Improving America's Schools Act of 1994, or the State or regional standards in effect on such date for a Bureau funded school;

"(B) the best projections of student counts and demographics as provided by the Bureau and as independently reviewed by the organization or institution selected by the Secretary to perform the analysis described in this section; and

"(C) the pay and benefit schedules and other personnel requirements for each school operated by the Bureau, as such pay and benefit schedules and requirements existed on the date of enactment of the Improving America's Schools Act of 1994.

"(3) **FEASIBILITY STUDY PURPOSE.**—(A) The purpose of the feasibility analysis provided for in paragraph (1)(B) shall be to determine whether it is feasible and desirable for the Bureau to replace or modify the weighted student unit formula system in effect on the date of enactment of this Act.

"(B) For the purposes of the feasibility analysis described in paragraph (1)(B), the term 'school-based budget system' means a system based upon an initial determination, at each school site, of the number of students who shall be served at the site, the needs of those students, the standards which will best meet those needs (including any standards or conditions reflecting local community input and such community's program), the personnel profile necessary to establish such program and the cost (determined on an actual basis) of funding such a program. Such a system shall include procedures to aggregate the determinations for each school site to determine the amount needed to fund all Bureau funded schools, to prepare a budget submission based upon such aggregate, and to provide for a mechanism for distributing such sums as may be appropriated based upon the determination at each school site.

"(4) **RESULTS REPORT.**—The contractor selected shall be required to report the results of analyses provided for in this section, in aggregate and school-specific form to the chairpersons and ranking minority members of the Committee on Education and Labor and the Committee on Appropriations of the House of Representatives and the Committee on the Indian Affairs and the Committee on Appropriations of the Senate, and to the Secretary of the Interior, not later than six months after the date of enactment of the Improving America's Schools Act of 1994. The contractor shall also be required to provide an estimate of the costs of meeting the academic and residential standards of the Bureau for each Bureau funded school for each of the three succeeding forward-funded fiscal years following the date of submission of such report. The contractor shall provide an estimate of such costs to such persons and members not later than January 1 of each succeeding fiscal year." and

(2) by adding at the end the following new subsections:

"(e) **GRANTS.**—The Secretary of the Interior may use not more than one percent of the funds received pursuant to section 304(a)(1)(B) in the first and second fiscal year for which the Secretary of the Interior receives such funds for the purpose of providing grants, if requested by Bureau funded school boards, to enable such

school boards to carry out activities of reform planning as such activities are described for States in section 308(b)(2)(J), including the feasibility of becoming a contract school pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), or a grant school pursuant to section 5204 of the Tribally Controlled Schools Act of 1988.

"(f) STUDY.—In cooperation with the panel established in subsection (b)(4), the Secretary of the Interior shall conduct a study to evaluate the feasibility of contracting with a private management firm for the operation of one or more Bureau operated schools to facilitate the achievement of the National Education Goals and the efficient use of funds in the education of Indian children, and to report to the persons identified in subsection (c)(4) and to the panel described in subsection (b)(4) not later than 12 months after the date of enactment of the Improving America's Schools Act of 1994."

#### SEC. 386. AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT.

(a) STAFF OF THE INSTITUTE.—Subsection (f) of section 1509 of the Higher Education Amendments of 1986 (20 U.S.C. 4416(f)) is amended to read as follows:

"(f) APPLICABILITY.—  
 "(1) This section shall apply to any individual appointed after October 17, 1986, for employment in the Institute. Except as provided in subsection (d) and (g), the enactment of this title shall not affect—  
 "(A) the continued employment of any individual employed before October 17, 1986; or  
 "(B) such individual's right to receive the compensation attached to such position.  
 "(2) This section shall not apply to an individual whose services are procured by the Institute pursuant to a written procurement contract.  
 "(3) This section shall not apply to employees of an entity performing services pursuant to a written contract with the Institute."

(b) ENDOWMENT PROGRAM.—Section 1518 of the Higher Education Amendments of 1986 (20 U.S.C. 4425) is amended—  
 (1) in subsection (b), by adding at the end the following new paragraph:

"(6) For the purpose of complying with the contribution requirement in this subsection, the Institute may use funds or in-kind contributions of real or personal property. For the purposes of this paragraph, all contributions, in-kind and real estate, which are held by the Institute beginning on November 29, 1990, and which were received after June 2, 1988, but which have not been included in their entirety in computations under this section shall be eligible for matching Federal funds appropriated in any year."; and  
 (2) in subsection (c), by amending paragraph (1) to read as follows:

"(1) Funds in the trust funds described in subsections (a) and (b) shall be invested under the same conditions and limitations as funds are invested under section 331(c)(2) of the Higher Education Act of 1965 and the regulations implementing such section (as such regulations were in effect at the time the funds are invested)."

"(2) This section shall not apply to an individual whose services are procured by the Institute pursuant to a written procurement contract.

"(3) This section shall not apply to employees of an entity performing services pursuant to a written contract with the Institute."

(b) ENDOWMENT PROGRAM.—Section 1518 of the Higher Education Amendments of 1986 (20 U.S.C. 4425) is amended—  
 (1) in subsection (b), by adding at the end the following new paragraph:

"(6) For the purpose of complying with the contribution requirement in this subsection, the Institute may use funds or in-kind contributions of real or personal property. For the purposes of this paragraph, all contributions, in-kind and real estate, which are held by the Institute beginning on November 29, 1990, and which were received after June 2, 1988, but which have not been included in their entirety in computations under this section shall be eligible for matching Federal funds appropriated in any year."; and  
 (2) in subsection (c), by amending paragraph (1) to read as follows:

"(1) Funds in the trust funds described in subsections (a) and (b) shall be invested under the same conditions and limitations as funds are invested under section 331(c)(2) of the Higher Education Act of 1965 and the regulations implementing such section (as such regulations were in effect at the time the funds are invested)."

#### PART I—CROSS REFERENCES AND CONFORMING AMENDMENTS

##### SEC. 391. CROSS REFERENCES.

(a) REFUGEE EDUCATION ASSISTANCE ACT OF 1980.—(1) Paragraph (1) of section 101 of the Refugee Education Assistance Act of 1980 (8 U.S.C. 1522 note) is amended by striking "section 198(a)" and inserting "section 14101".

(2) Paragraph (2) of section 201(b) of the Refugee Education Assistance Act of 1980 (8 U.S.C. 1522 note) is amended by striking "(other than section 303 of the Elementary and Secondary Education Act of 1965)".

(3) Paragraph (3) of section 301(b) of the Refugee Education Assistance Act of 1980 (8 U.S.C.

1522 note) is amended by striking "except that no reduction under this paragraph shall be made for any funds made available to the State under section 303 of the Elementary and Secondary Education Act of 1965".

(4) Paragraph (2) of section 401(b) of the Refugee Education Assistance Act of 1980 (8 U.S.C. 1522 note) is amended by striking "(other than section 303 of the Elementary and Secondary Education Act of 1965)".

(b) TITLE 10.—(1) Subparagraph (A) of section 1151(b)(2) of title 10, United States Code, is amended by striking "chapter 1 of".

(2) Subparagraph (A) of section 1151(b)(3) of title 10, United States Code, is amended by striking "chapter 1 of".

(3) Subparagraph (A) of section 1598(a)(2) of title 10, United States Code, is amended by striking "chapter 1 of".

(4) Section 2194 of title 10, United States Code, is amended—

(A) in subsection (a), by striking "education agencies" and inserting "educational agency"; and

(B) in subsection (e)—  
 (i) by striking "education agency" and inserting "educational agency";

(ii) by striking "section 1471(12)" and inserting "section 14101"; and  
 (iii) by striking "(20 U.S.C. 1058(b))".

(5) Subparagraph (A) of section 2410j(a)(2) of title 10, United States Code, is amended by striking "chapter 1 of".

(c) TOXIC SUBSTANCES CONTROL ACT.—(1) Subparagraph (A) of section 202(7) of the Toxic Substances Control Act (15 U.S.C. 2642(7)(A)) is amended—

(A) by striking "section 198" and inserting "section 14101"; and  
 (B) by striking "(20 U.S.C. 3381)".

(2) Paragraph (9) of section 202 of the Toxic Substances Control Act (15 U.S.C. 2642(9)) is amended—

(A) by striking "section 198" and inserting "section 14101"; and  
 (B) by striking "(20 U.S.C. 2854)".

(3) Paragraph (12) of section 202 of the Toxic Substances Control Act (15 U.S.C. 2642(12)) is amended—

(A) by striking "section 198" and inserting "section 14101"; and  
 (B) by striking "(20 U.S.C. 2854)".

(4) Section 302(1) of the Toxic Substances Control Act (15 U.S.C. 2662(1)(A)) is amended—

(A) in subparagraph (A)—  
 (i) by striking "section 198" and inserting "section 14101"; and  
 (ii) by striking "(20 U.S.C. 3381)"; and  
 (B) in subparagraph (C), by inserting "or successor authority" after "1107".

(d) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1993.—Paragraph (1) of section 386(h) of the National Defense Authorization Act for Fiscal Year 1993 (20 U.S.C. 238 note) is amended—

(1) by striking "section 1471(12)" and inserting "section 14101"; and  
 (2) by striking "(20 U.S.C. 2891(12))".

(e) HIGHER EDUCATION ACT OF 1965.—(1) Clause (ii) of section 418A(b)(1)(B) of the Higher Education Act of 1965 (20 U.S.C. 1070d-2(b)(1)(B)(ii)) is amended by striking "subpart 1 of part D of chapter 1" and inserting "part C".

(2) Subparagraph (A) of section 418A(c)(1) of the Higher Education Act of 1965 (20 U.S.C. 1070d-2(c)(1)(A)) is amended—  
 (A) by striking "subpart 1 of part D of chapter 1" and inserting "part C"; and  
 (B) by inserting "(or such part's predecessor authority)" after "1965".

(3) Subparagraph (A) of section 465(a)(2) of the Higher Education Act of 1965 (20 U.S.C. 1087e(a)(2)(A)) is amended by striking "chapter 1 of the Education Consolidation and Improve-

ment Act of 1981" and inserting "title I of the Elementary and Secondary Education Act of 1965".

(4) Subsection (a) of section 469 of the Higher Education Act of 1965 (20 U.S.C. 1087i(a)) is amended by striking "chapter 1 of".

(5) Subsection (b) of section 572 of the Higher Education Act of 1965 (20 U.S.C. 1111a(b)) is amended by striking "of chapter 1".

(6) Paragraph (1) of section 581(b) of the Higher Education Act of 1965 (20 U.S.C. 1113(b)(1)) is amended by striking "part A or subpart 1 of part D of chapter 1" and inserting "part A or C".

(7) Paragraph (3) of section 581(c) of the Higher Education Act of 1965 (20 U.S.C. 1113(c)(3)) is amended by striking "chapter 1 of".

(8) Subparagraph (C) of section 586(d)(1) of the Higher Education Act of 1965 (20 U.S.C. 1114(d)(1)(C)) is amended by striking "chapter 1 of".

(9) Subparagraph (D) of section 586(d)(1) of the Higher Education Act of 1965 (20 U.S.C. 1114(d)(1)(D)) is amended by striking "chapter 1 of".

(10) Subclause (I) of section 1144(b)(1)(B)(iv) of the Higher Education Act of 1965 (20 U.S.C. 1138c(b)(1)(B)(iv)(I)) is amended by striking "chapter 1 of".

(f) INDIVIDUALS WITH DISABILITIES EDUCATION ACT.—(1) Clause (ii) of section 602(a)(21)(A) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(a)(21)(A)(ii)) is amended by striking "chapter 1 of".

(2) Paragraph (2) of section 613(a) of the Individuals with Disabilities Education Act (20 U.S.C. 1413(a)(2)) is amended by striking "including subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965".

(3) Subparagraph (B) of section 622(c)(2) of the Individuals with Disabilities Education Act (20 U.S.C. 1422(c)(2)) is amended by striking "and subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965".

(g) EDUCATION AMENDMENTS OF 1972.—Subparagraph (B) of section 908(2) of the Education Amendments of 1972 (20 U.S.C. 1687(2)(B)) is amended by striking "section 198(a)(10)" and inserting "section 14101".

(h) DEPARTMENT OF EDUCATION ORGANIZATION ACT.—Section 204 of the Department of Education Organization Act (20 U.S.C. 3414) is amended by striking "subpart 1 of part B" and inserting "part C".

(i) EDUCATION AND TRAINING FOR A COMPETITIVE AMERICA ACT OF 1988.—The Education and Training for a Competitive America Act of 1988 (20 U.S.C. 5001 et seq.) is repealed.

(j) EDUCATIONAL PARTNERSHIPS ACT OF 1988.—The Educational Partnerships Act of 1988 (20 U.S.C. 5031 et seq.) is repealed.

(k) SECONDARY SCHOOLS BASIC SKILLS DEMONSTRATION ASSISTANCE ACT OF 1988.—The Secondary Schools Basic Skills Demonstration Assistance Act of 1988 (20 U.S.C. 5061 et seq.) is repealed.

(l) EXCELLENCE IN MATHEMATICS, SCIENCE AND ENGINEERING EDUCATION ACT OF 1990.—The Excellence in Mathematics, Science and Engineering Education Act of 1990 (20 U.S.C. 5311 et seq.) is repealed.

(m) NATIONAL ENVIRONMENTAL EDUCATION ACT.—Paragraph (5) of section 3 of the National Environmental Education Act (20 U.S.C. 5502(5)) is amended—

(1) by striking "local education" and inserting "local educational"; and  
 (2) by striking "section 198" and inserting "section 14101".

(n) JOB TRAINING PARTNERSHIP ACT.—(1) Paragraph (23) of section 4 of the Job Training Partnership Act (29 U.S.C. 1503(23)) is amended

by striking "section 1471(23)" and inserting "section 14101".

(2) Subparagraph (B) of section 263(a)(2) of the Job Training Partnership Act (29 U.S.C. 1643(a)(2)(B)) is amended by striking "chapter 1 of".

(3) Subparagraph (B) of section 263(g)(1) of the Job Training Partnership Act (29 U.S.C. 1643(g)(1)(B)) is amended by striking "chapter 1 of".

(4) Paragraph (2) of section 265(b) of the Job Training Partnership Act (29 U.S.C. 1645(b)(2)) is amended by striking "parts A through D of chapter 1" and inserting "parts A through C".

(o) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1993.—Paragraph (3) of section 1091(l) of the National Defense Authorization Act for Fiscal Year 1993 (32 U.S.C. 501 note) is amended by inserting "(as such section was in effect on the day preceding the date of enactment of this Act)" after "1965".

(p) SAFE DRINKING WATER ACT.—Section 1461 of the Safe Drinking Water Act (42 U.S.C. 300j-21(6)) is amended—

(1) in subparagraph (A) of paragraph (3)—

(A) by striking "section 198" and inserting "section 14101"; and

(B) by striking "(20 U.S.C. 3381)"; and

(2) in paragraph (6)—

(A) by striking "section 198" and inserting "section 14101"; and

(B) by striking "(20 U.S.C. 2854)".

(q) CIVIL RIGHTS ACT OF 1964.—Subparagraph (B) of section 606(2) of the Civil Rights Act of 1964 (42 U.S.C. 2000d-4a(2)(B)) is amended by striking "section 198(a)(10)" and inserting "section 14101".

(r) OLDER AMERICANS ACT OF 1965.—(1) Section 338A of the Older Americans Act of 1965 (42 U.S.C. 3030g-12(a)(1)) is amended—

(A) in paragraph (1) of subsection (a)—

(i) by striking "section 1471" and inserting "section 14101"; and

(ii) by striking "(20 U.S.C. 2891)"; and

(B) in paragraph (3) of subsection (b)—

(i) by striking "projects under section 1015" and inserting "programs under section 1114"; and

(ii) by striking "(20 U.S.C. 2025)".

(2) Subparagraph (B) of section 363(5) of the Older Americans Act of 1965 (42 U.S.C. 3030o(5)(B)) is amended—

(A) by striking "section 1471" and inserting "section 14101"; and

(B) by striking "(20 U.S.C. 2891)".

(s) CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT.—(1) Sub-

section (d) of section 111 of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2321(d)) is amended by striking "chapter 1 of".

(2) Paragraph (14) of section 113(b) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2323(b)(14)) is amended by striking "chapter 1 of".

(3) Subsection (a) of section 115 of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2325(a)) is amended—

(A) by striking "chapter 1 of"; and

(B) by inserting "of 1965" after "Secondary Education Act".

(4) Paragraph (1) of section 231(a) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2341(a)(1)) is amended by striking "section 1005" and inserting "section 1124 or such section's predecessor authority".

(5) Clause (iv) of section 231(d)(3)(A) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2341(d)(3)(A)(iv)) is amended by striking "chapter 1 of".

(6) Paragraph (3) of section 420(a) of the Carl D. Perkins Vocational and Applied Technology

Education Act (20 U.S.C. 2420(a)(3)) is amended by striking "section 1562" and inserting "part B of title XIII".

(7) Paragraph (20) of section 521 of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(20)) is amended by striking "section 1471(5)" and inserting "section 14101".

(8) Paragraph (21) of section 521 of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(21)) is amended by striking "section 703(a)(1)" and inserting "section 7004(a)".

(t) JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974.—Paragraph (2) of section 288E(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5667e-5(a)(2)) is amended by striking "chapter 1 of".

(u) AGE DISCRIMINATION ACT OF 1975.—Clause (ii) of section 309(4)(B) of the Age Discrimination Act of 1975 (42 U.S.C. 6107(4)(B)(ii)) is amended by striking "section 198(a)(10)," and inserting "section 14101".

(v) HEAD START TRANSITIONAL PROJECT ACT.—(1) Paragraph (4) of section 132 of the Head Start Transition Project Act (42 U.S.C. 9855(4)) is amended by striking "section 1471(12)" and inserting "section 14101".

(2) Subsection (a) of section 134 of the Head Start Transition Project Act (42 U.S.C. 9855b(a)) is amended by striking "of chapter 1".

(3) Subsection (b) of section 134 of the Head Start Transition Project Act (42 U.S.C. 9855b(b)) is amended by striking "of chapter 1".

(4) Subsection (d) of section 135 of the Head Start Transition Project Act (42 U.S.C. 9855c(d)) is amended by striking "schoolwide project under section 1015(a)" and inserting "schoolwide program under section 1114".

(5) Subparagraph (C) of section 136(a)(4) of the Head Start Transition Project Act (42 U.S.C. 9855d(a)(4)(C)) is amended—

(A) by striking "the Follow Through Act, chapter 1 of"; and

(B) by striking "part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (Even Start)".

(6) Paragraph (8) of section 136(a) of the Head Start Transition Project Act (42 U.S.C. 9855d(a)(8)) is amended by striking "part B of chapter 1" and inserting "part B".

(7) Paragraph (10) of section 136(a) of the Head Start Transition Project Act (42 U.S.C. 9855d(a)(10)) is amended by striking "part B of chapter 1" and inserting "part B".

(w) FOLLOW THROUGH ACT.—The Follow Through Act (42 U.S.C. 9861 et seq.) is repealed.

(x) COMPREHENSIVE CHILD DEVELOPMENT ACT.—Paragraph (5) of section 670S of the Comprehensive Child Development Act (42 U.S.C. 9886(5)) is amended by striking "section 1471(12)" and inserting "section 14101".

(y) NATIONAL AND COMMUNITY SERVICE ACT OF 1990.—Subparagraph (B) of section 112(b)(2) of the National and Community Service Act of 1990 (42 U.S.C. 12524(b)(2)(B)) is amended by striking "chapter 1 of".

(z) TRAINING TECHNOLOGY TRANSFER ACT OF 1988.—Paragraph (1) of section 6144 of the Training Technology Transfer Act of 1988 (20 U.S.C. 5124(1)) is amended by striking "section 405(d)(4)(A)(i) of the General Education Provisions Act (20 U.S.C. 1221e(d)(4)(A)(i))" and inserting "section 941(h) of the Educational Research, Development, Dissemination, and Improvement Act of 1994".

SEC. 392. ADDITIONAL REPEALS AND TECHNICAL AND CONFORMING AMENDMENTS REGARDING IMPACT AID.

(a) ADDITIONAL REPEALS.—

(1) OMNIBUS BUDGET RECONCILIATION ACT OF 1981.—Subsection (c) of section 505 of the Omnibus Budget Reconciliation Act of 1981 is repealed.

(2) EDUCATION AMENDMENTS OF 1984.—Section 302 of the Education Amendments of 1984 is repealed.

(3) DEPARTMENT OF EDUCATION APPROPRIATIONS ACT, 1991.—Section 306 of the Department of Education Appropriations Act, 1991, is repealed.

(4) NATIONAL ASSESSMENT OF CHAPTER 1 ACT.—Paragraph (2) of section 3(a) of the 1992 National Assessment of Chapter 1 Act is repealed.

(5) PUBLIC LAW 92-277.—Section 2 of Public Law 92-277 (86 Stat. 124) is repealed.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS OF 1966.—Section 182 of the Elementary and Secondary Education Amendments of 1966 is amended by striking "by the Act of September 23, 1950 (Public Law 815, 81st Congress)".

(2) TOXIC SUBSTANCES CONTROL ACT.—Subparagraph (C) of section 302(1) of the Toxic Substances Control Act (15 U.S.C. 2662(1)(C)) is amended by inserting "as in effect before enactment of the Improving America's Schools Act of 1994" after "section 6 of the Act of September 30, 1950 (64 Stat. 1107)".

SEC. 393. INDIAN EDUCATION.

(a) ADULT EDUCATION ACT.—Paragraph (4) of section 322(a) of the Adult Education Act (20 U.S.C. 1203a(a)) is amended by striking "the Indian Education Act" and inserting "title IX of the Elementary and Secondary Education Act of 1965".

(b) EDUCATION AMENDMENTS OF 1978.—Paragraph (3) of section 1128(c) of the Education Amendments of 1978 (25 U.S.C. 2008(c)(3)) is amended—

(1) in clause (i) of subparagraph (A), by striking "(as determined pursuant to section 5324 of the Indian Education Act of 1988)"; and

(2) in subparagraph (B)—

(A) by striking "the later of the following" and all that follows through "(ii)"; and

(B) by inserting "and for each fiscal year thereafter" before the period at the end thereof.

(c) INDIAN EDUCATION ASSISTANCE ACT.—Section 209 of the Indian Education Assistance Act (25 U.S.C. 458e) is amended by striking "title IV of the Act of June 23, 1972 (86 Stat. 235)" and inserting "title IX of the Elementary and Secondary Education Act of 1965".

(d) JOHNSON-O'MALLEY ACT.—Subsection (a) of section 5 of the Act of April 16, 1934, commonly known as the "Johnson-O'Malley Act" (25 U.S.C. 456(a)) is amended by striking "section 305(b)(2)(B)(ii) of the Act of June 23, 1972 (86 Stat. 235)" and inserting "section 9104(c)(4) of the Elementary and Secondary Education Act of 1965".

SEC. 394. OTHER TECHNICAL AND CONFORMING AMENDMENTS.

(a) ADULT EDUCATION ACT.—Paragraph (7) of section 342(c) of the Adult Education Act (20 U.S.C. 1206a(c)) is amended by striking "section 7004(a) of title VII" and inserting "section 7004(a)".

(b) ANTI-DRUG ABUSE ACT OF 1988.—Subparagraph (A) of section 3521(d)(8) of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11841(d)(8)(A)) is amended by striking "the Drug-Free Schools and Communities Act of 1986" and inserting "title IV of the Elementary and Secondary Education Act of 1965".

(c) ASBESTOS SCHOOL HAZARD ABATEMENT ACT.—Section 511 of the Asbestos School Hazard Abatement Act of 1984 (20 U.S.C. 4020) is amended—

(1) in subparagraph (A) of paragraph (4), by striking "section 198(a)(10)" and inserting "section 14101"; and

(2) in subparagraph (A) of paragraph (5), by striking "section 198(a)(7)" and inserting "section 14101".

(d) CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT.—Paragraph (10) of section 457 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12899f(10)) is amended by striking "section 7003 of the Bilingual Education Act" and inserting "section 7004(a) of the Elementary and Secondary Education Act of 1965".

(e) FAMILY AND MEDICAL LEAVE ACT OF 1993.—Subparagraph (A) of section 108(a)(1) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2618(a)(1)(A)) is amended by striking "section 1471(12)" and inserting "section 14101".

(f) GOALS 2000: EDUCATION AMERICA ACT.—The Goals 2000: Educate America Act is amended—

(1) in section 3—

(A) in subsection (a)—

(i) in paragraph (6), by striking "section 1471" and inserting "section 14101"; and

(ii) in paragraph (10), by striking "section 602" and inserting "section 602(a)(17)"; and

(B) in paragraph (1) of subsection (b), by striking "section 1471" and inserting "section 14101";

(2) in paragraph (7) of section 231, by striking "chapter 1 of";

(3) in subsection (b) of section 232—

(A) in subparagraph (A) of paragraph (2), by striking "Star Schools Program Assistance Act" and inserting "Star Schools program authorized by part B of title III of the Elementary and Secondary Education Act of 1965"; and

(B) in subparagraph (F) of paragraph (3), by striking "the evaluation undertaken pursuant to section 908 of the Star Schools Program Assistance Act" and inserting "any evaluation of the Star School program undertaken by the Secretary";

(4) in subsection (b) of section 310, by striking "section 1017" and inserting "sections 1020 and 14503"; and

(5) in subsection (b) of section 311, by amending paragraphs (1) through (6) to read as follows:

"(1) Title I of the Elementary and Secondary Education Act of 1965.

"(2) Part A of title II of the Elementary and Secondary Education Act of 1965.

"(3) Part A of title V of the Elementary and Secondary Education Act of 1965.

"(4) Title VIII of the Elementary and Secondary Education Act of 1965.

"(5) Part B of title IX of the Elementary and Secondary Education Act of 1965.

"(6) The Carl D. Perkins Vocational and Applied Technology Education Act."

(g) IMMIGRATION AND NATIONALITY ACT.—Subparagraph (D) of section 245A(h)(4) of the Immigration and Nationality Act (8 U.S.C. 1255a(h)(4)(D)) is amended to read as follows:

"(D) Title I of the Elementary and Secondary Education Act of 1965."

(h) NATIONAL AND COMMUNITY SERVICE ACT OF 1990.—The National and Community Service Act of 1990 is amended—

(1) in section 101—

(A) in paragraph (8), by striking "section 1471(8) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(8))" and inserting "section 14101 of the Elementary and Secondary Education Act of 1965";

(B) in paragraph (14), by striking "section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12))" and inserting "section 14101 of the Elementary and Secondary Education Act of 1965";

(C) in paragraph (22), by striking "section 1471(21) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(21))" and inserting "section 14101 of the Elementary and Secondary Education Act of 1965"; and

(D) in paragraph (28), by striking "section 1471(23) of the Elementary and Secondary Edu-

cation Act of 1965 (20 U.S.C. 2891(23))" and inserting "section 14101 of the Elementary and Secondary Education Act of 1965";

(2) in subparagraph (B) of section 112(b)(2), by inserting "or its successor authority" after "(20 U.S.C. 2711 et seq.)"; and

(3) in subsection (b) of section 115A, by inserting ", as in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994" after "(20 U.S.C. 2727(b))".

(i) REHABILITATION ACT OF 1973.—The Rehabilitation Act of 1973 is amended—

(1) in section 202(b)(4)(A)(i), by striking "paragraphs (8) and (21), respectively, of section 1471 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891 (8) and (21))" and inserting "section 14101 of the Elementary and Secondary Education Act of 1965"; and

(2) in subparagraph (B) of section 504(b)(2), by striking "section 1471(12)" and inserting "section 14101".

(j) SCHOOL-TO-WORK OPPORTUNITIES ACT OF 1994.—The School-to-Work Opportunities Act of 1994 is amended—

(1) in paragraph (15) of section 4, by striking "section 602(17)" and inserting "section 602(a)(17)"; and

(2) in subsection (b) of section 502, by amending paragraphs (1) through (6) to read as follows:

"(1) title I of the Elementary and Secondary Education Act of 1965;

"(2) part A of title II of the Elementary and Secondary Education Act of 1965;

"(3) part A of title V of the Elementary and Secondary Education Act of 1965;

"(4) part B of title IX of the Elementary and Secondary Education Act of 1965;

"(5) title XIII of the Elementary and Secondary Education Act of 1965; and

"(6) the Carl D. Perkins Vocational and Applied Technology Education Act."

(k) SOCIAL SECURITY ACT.—Paragraph (7) of section 402(g) of the Social Security Act (42 U.S.C. 602(g)(7)) is amended by striking "chapter 1 of the Education Consolidation and Improvement Act of 1981" and inserting "title I of the Elementary and Secondary Education Act of 1965".

(l) STATE DEPENDENT CARE DEVELOPMENT GRANTS ACT.—Section 670G of the State Dependent Care Development Grants Act (42 U.S.C. 9877) is amended—

(1) in paragraph (6), by striking "section 198(a)(10)" and inserting "section 14101 of the Elementary and Secondary Education Act of 1965"; and

(2) in paragraph (11), by striking "section 198(a)(17)" and inserting "section 14101".

(m) TRIBALLY CONTROLLED SCHOOLS ACT OF 1988.—The Tribally Controlled Schools Act of 1988 is amended—

(1) in subparagraph (C) of section 5204(a)(3), by striking "chapter 1 of"; and

(2) in section 5205—

(A) in subparagraph (A) of subsection (a)(3), by striking "chapter 1 of"; and

(B) in subsection (b)—

(i) in subparagraph (A) of paragraph (2), by striking "chapter 1 of"; and

(ii) in clause (i) of paragraph (3)(A), by striking "chapter 1 of".

#### TITLE IV—NATIONAL EDUCATION STATISTICS

##### SEC. 401. SHORT TITLE.

This title may be cited as the "National Education Statistics Act of 1994".

##### SEC. 402. FINDINGS; PURPOSE; DEFINITIONS.

(a) FINDINGS.—The Congress finds that—

(1) a Department of Education was established in 1867 "for the purpose of collecting such statistics and facts as shall show the condition and progress of education in the several States and territories, and of diffusing such informa-

tion respecting the organization and management of schools and school systems and methods of teaching as shall aid the people of the United States in the establishment and maintenance of efficient school systems, and otherwise promote the cause of education throughout the United States";

(2) today, while the role of the current Department of Education is much broader, the National Center for Education Statistics within the Office of Educational Research and Improvement continues to perform those crucial original purposes; and

(3) looking to the 21st century, the National Center for Education Statistics must be able to design and undertake, effectively and efficiently, statistical activities that will aid in the reform of the Nation's educational systems.

(b) PURPOSE.—It is the purpose of this title to ensure the continuation of an effective mechanism for collecting and reporting statistics and information showing the condition and progress of education in the United States and other nations in order to promote and accelerate the improvement of American education.

(c) DEFINITIONS.—For the purpose of this title and unless otherwise specified—

(1) the term "Assistant Secretary" means the Assistant Secretary for Educational Research and Improvement established under section 202(b)(1)(E) of the Department of Education Organization Act;

(2) the term "Department" means the Department of Education;

(3) the term "institution of higher education" has the same meaning given such term in section 1201(a) of the Higher Education Act of 1965;

(4) the term "local educational agency" has the same meaning given such term in section 14101 of the Elementary and Secondary Education Act of 1965;

(5) the term "Secretary" means the Secretary of Education;

(6) the term "State educational agency" has the same meaning given such term in section 14101 of the Elementary and Secondary Education Act of 1965; and

(7) the terms "State" and "United States"—

(A) other than for the purpose of section 411, mean each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and

(B) for the purpose of section 411, have the same meaning given such terms in subparagraph (A), except that such terms include Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and Palau.

##### SEC. 403. NATIONAL CENTER FOR EDUCATION STATISTICS.

(a) ESTABLISHMENT.—There is established, within the Office of Educational Research and Improvement established under section 208 of the Department of Education Organization Act, a National Center for Education Statistics (hereafter in this title referred to as the "Center").

(b) COMMISSIONER AND ASSOCIATE COMMISSIONERS.—

(1) COMMISSIONER.—The Center shall be headed by a Commissioner of Education Statistics (hereafter in this title referred to as the "Commissioner") who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall—

(A) have substantial knowledge of programs assisted by the Center;

(B) be paid in accordance with section 5315 of title 5, United States Code; and

(C) serve for a term of four years, with the terms to expire every fourth June 21, beginning in 1995.

(2) **ASSOCIATE COMMISSIONERS.**—The Commissioner may appoint such Associate Commissioners as the Commissioner determines are necessary and appropriate.

**SEC. 404. DUTIES OF THE CENTER.**

(a) **DUTIES.**—The duties of the Center are to collect, analyze, and disseminate statistics and other information related to education in the United States and in other nations, including—

(1) collecting, acquiring, compiling (where appropriate, on a State by State basis), and disseminating full and complete statistics on the condition and progress of education, at the preschool, elementary, secondary, and postsecondary levels in the United States, including data on—

(A) State and local education reform activities;

(B) student achievement at all levels of education;

(C) secondary school completions, dropouts, and adult literacy;

(D) educational access to and opportunity for postsecondary education, including data on financial aid to postsecondary students;

(E) teaching, including data on course-taking, instruction, the conditions of the education workplace, and the supply of, and demand for, teachers, which may include data on the proportions of women and men, cross-tabulated by race or ethnicity, teaching in subjects in which such individuals have been historically underrepresented;

(F) the learning and teaching environment, including data on libraries;

(G) the incidence, frequency, seriousness, and nature of violence affecting students, school personnel, and other individuals participating in school activities, as well as other indices of school safety;

(H) the financing and management of education, including data on revenues and expenditures; and

(I) the social and economic status of children;

(2) conducting and publishing reports and analyses of the meaning and significance of such statistics;

(3) conducting longitudinal studies, as well as regular and special surveys and data collections, necessary to report on the condition and progress of education;

(4) collecting, analyzing, cross-tabulating, and reporting, to the extent feasible, so as to provide information by gender, race, socioeconomic status, limited-English proficiency, and other population characteristics when such disaggregated information would facilitate educational and policy decisionmaking;

(5) assisting public and private educational agencies, organizations, and institutions in improving and automating statistical and data collection activities; and

(6) acquiring and disseminating data on educational activities and student achievement in the United States compared with foreign nations.

(b) **TRAINING PROGRAM.**—The Commissioner may establish a program to train employees of public and private educational agencies, organizations, and institutions in the use of the Center's standard statistical procedures and concepts and may establish a fellows program to appoint such employees as temporary fellows at the Center in order to assist the Center in carrying out its duties.

**SEC. 405. PERFORMANCE OF DUTIES.**

(a) **GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS.**—

(1) **IN GENERAL.**—In carrying out the Commissioner's duties under this title, the Commissioner may award grants, and enter into contracts and cooperative agreements.

(2) **DURATION.**—Notwithstanding any other provision of law, the grants, contracts, and co-

operative agreements under this section may be awarded, on a competitive basis, for a period of not more than five years, and may be renewed at the discretion of the Commissioner for an additional period of not more than five years.

(b) **GATHERING INFORMATION.**—

(1) **SAMPLING.**—The Commissioner may use the statistical method known as sampling to carry out the purpose of this title.

(2) **SOURCE OF INFORMATION.**—The Commissioner may, as the Commissioner considers appropriate, use information collected—

(A) from States, local educational agencies, public and private schools, preschools, institutions of higher education, libraries, administrators, teachers, students, the general public, and such other individuals, organizations, agencies, and institutions as the Commissioner may consider appropriate; and

(B) by other offices within the Department and by other Federal departments, agencies, and instrumentalities.

(3) **COLLECTION.**—The Commissioner may—

(A) enter into interagency agreements for the collection of statistics;

(B) arrange with any agency, organization, or institution for the collection of statistics; and

(C) assign employees of the Center to any such agency, organization, or institution to assist in such collection.

(4) **TECHNICAL ASSISTANCE AND COORDINATION.**—In order to maximize the effectiveness of Federal efforts to serve the educational needs of children and youth, the Commissioner shall—

(A) provide technical assistance to Department offices that gather data for statistical purposes; and

(B) coordinate closely with other Department offices in the collection of data.

**SEC. 406. REPORTS.**

(a) **REPORT ON THE CONDITION AND PROGRESS OF EDUCATION.**—The Commissioner shall, not later than June 1, 1995, and each succeeding June 1 thereafter, submit to the President and the Congress a statistical report on the condition and progress of education in the United States.

(b) **STATISTICAL REPORTS.**—The Commissioner shall issue regular statistical reports to the President and Congress on such education topics as the Commissioner determines to be appropriate.

(c) **SPECIAL REPORTS.**—The Commissioner may, whenever the Commissioner considers it appropriate, issue special reports on particular education topics.

**SEC. 407. ADVISORY COUNCIL ON EDUCATION STATISTICS.**

(a) **ESTABLISHMENT.**—There is established, within the Center, the Advisory Council on Education Statistics (hereafter in this title referred to as the "Council").

(b) **MEMBERSHIP.**—

(1) **COMPOSITION.**—The Council shall be composed of—

(A) 18 voting members who are users of education data and who are appointed by the Secretary on the basis of their experience and eminence within the field of education, of whom at least—

(i) three shall be practicing educators;

(ii) three shall be education policymakers;

(iii) three shall be professional statisticians;

(iv) three shall be education researchers; and

(v) three shall be experts in educational measurement;

(B) three individuals representing the general public, appointed by the Secretary;

(C) the Director of the Census and the Commissioner of Labor Statistics, as voting, ex officio members; and

(D) the Assistant Secretary and the Commissioner, as nonvoting, ex officio members.

(2) **PRESIDING OFFICER.**—The Commissioner shall appoint the presiding officer of the Coun-

cil from among the voting members of the Council.

(3) **TERMS.**—Members of the Council appointed under paragraph (1)(A) shall be appointed for three-year terms except that, in the case of initial appointments, the Secretary shall make appointments for shorter terms to the extent necessary to avoid the expiration of the terms of more than six members in the same calendar year.

(4) **MEETINGS.**—(A) The Council shall meet in public session at the call of the presiding officer, except that the Council shall meet—

(i) at least two times during each calendar year; and

(ii) in addition, whenever ten voting members request in writing that the presiding officer call a meeting.

(B) Eleven voting members of the Council shall constitute a quorum.

(5) **SPECIAL RULE.**—The Council shall—

(A) review general policies for the operation of the Center and shall advise the Commissioner on standards to ensure that statistics and other information disseminated by the Center are of high quality and are not subject to partisan political influence; and

(B) advise the Commissioner and the National Assessment Governing Board on technical and statistical matters related to the National Assessment of Educational Progress.

(6) **STAFF.**—The Council shall appoint a staff of not more than six individuals with technical expertise to enable the Council to carry out its duties.

**SEC. 408. CONFIDENTIALITY.**

(a) **CONFIDENTIALITY STANDARDS.**—

(1) **IN GENERAL.**—(A) The Center shall develop and enforce standards designed to protect the confidentiality of persons in the collection, reporting, and publication of data under this title.

(B) This section shall not be construed to protect the confidentiality of information about institutions, organizations, and agencies that receive grants from, or have contracts or cooperative agreements with, the Federal Government.

(2) **PROHIBITION.**—No person may—

(A) use any individually identifiable information furnished under this title for any purpose other than a statistical purpose;

(B) make any publication whereby the data furnished by any particular person under this title can be identified; or

(C) permit anyone other than the individuals authorized by the Commissioner to examine the individual reports.

(b) **ADMINISTRATION.**—

(1) **IN GENERAL.**—No department, bureau, agency, officer, or employee of the Federal Government, except the Commissioner in carrying out the purposes of this title, shall require, for any reason, copies of reports that have been filed under this title with the Center or retained by any individual respondent. Copies of such reports that have been so filed or retained with the Center or any of the Center's employees, contractors, or agents shall be immune from legal process, and shall not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding. This paragraph shall apply only to individually identifiable information (as defined in paragraph (5)(A)).

(2) **EMPLOYEE OR STAFF VIOLATIONS.**—Whoever, being or having been an employee or staff member of the Department, having taken or subscribed the oath of office, or having sworn to observe the limitations imposed by subsection (a)(2), knowingly publishes or communicates any individually identifiable information (as defined in paragraph (5)(A)), the disclosure of which is prohibited by subsection (a)(2), and that comes into such employee or staff's possession by reason of employment (or otherwise providing services) under this title, shall be found

guilty of a class E felony and imprisoned for not more than five years, or fined as specified in section 3571 of title 18, United States Code, or both.

(3) **TEMPORARY STAFF.**—The Commissioner may utilize temporary staff, including employees of Federal, State, or local agencies or instrumentalities (including local educational agencies), and employees of private organizations to assist the Center in performing the Center's responsibilities, but only if such temporary staff are sworn to observe the limitations imposed by this section.

(4) **INFORMATION REQUIREMENTS.**—No collection of information or data acquisition activity undertaken by the Center shall be subject to any review, coordination, or approval procedure except as required by the Director of the Office of Management and Budget under the rules and regulations established pursuant to chapter 35 of title 44, United States Code, except such collection of information or data acquisition activity may be subject to review or coordination if the Commissioner determines that such review or coordination is beneficial.

(5) **DEFINITIONS.**—For the purposes of this section—

(A) the term "individually identifiable information" means any record, response form, completed survey, or aggregation thereof from which information about particular individuals may be revealed; and

(B) the term "report" means a response provided by or about an individual to an inquiry from the Center and does not include a statistical aggregation from which individually identifiable information cannot be revealed.

(6) **VIOLATIONS.**—Any person who uses any data provided by the Center, in conjunction with any other information or technique, to identify any individual student, teacher, administrator, or other individual and who knowingly discloses, publishes, or uses such data for a purpose other than a statistical purpose, or who otherwise violates subparagraph (A) or (B) of subsection (a)(2), shall be found guilty of a class E felony and imprisoned for not more than five years, or fined as specified in section 3571 of title 18, United States Code, or both.

(7) **ACCESS TO REPORTS OR RECORDS.**—Nothing in this section shall restrict the right of the Secretary, the Comptroller General of the United States, the Director of the Congressional Budget Office, and the Librarian of Congress, to gain access to any reports or other records, including information identifying individuals, in the Center's possession, except that the same restrictions on disclosure that apply under paragraphs (1) and (6) shall apply to such individuals.

#### SEC. 409. DISSEMINATION.

(a) **GENERAL REQUESTS.**—

(1) **IN GENERAL.**—The Center may furnish transcripts or copies of tables and other statistical records and make special statistical compilations and surveys for State and local officials, public and private organizations, and individuals.

(2) **COMPILATIONS.**—The Center shall provide State and local educational agencies opportunities to suggest the development of particular compilations of statistics, surveys, and analyses that would assist those educational agencies.

(b) **CONGRESSIONAL REQUESTS.**—The Center shall furnish such special statistical compilations and surveys as the Congress may request.

(c) **JOINT STATISTICAL PROJECTS.**—The Secretary may engage in joint statistical projects related to the purposes of this title, or other statistical purposes authorized by law, with nonprofit organizations or agencies, and the cost of such projects shall be shared equitably as determined by the Secretary.

(d) **FEES.**—

(1) **IN GENERAL.**—Statistical compilations and surveys under this section, other than those car-

ried out pursuant to subsections (b) and (c), may be made subject to the payment of the actual or estimated cost of such work.

(2) **FUNDS RECEIVED.**—All funds received in payment for work or services described in this subsection may be used to pay directly the costs of such work or services, to repay appropriations that initially bore all or part of such costs, or to refund excess sums when necessary.

(e) **ACCESS.**—

(1) **OTHER AGENCIES.**—The Center shall, consistent with section 408, cooperate with other Federal agencies having a need for educational data in providing access to educational data received by the Center.

(2) **INTERESTED PARTIES.**—The Center shall, in accordance with such terms and conditions as the Secretary may prescribe, provide all interested parties, including public and private agencies and individuals, direct access to data collected by the Center for the purposes of research and acquiring statistical information.

#### SEC. 410. COOPERATIVE EDUCATION STATISTICS SYSTEMS.

(a) **IN GENERAL.**—The Commissioner may establish one or more national cooperative education statistics systems for the purpose of producing and maintaining, with the cooperation of the States, comparable and uniform information and data on elementary and secondary education, postsecondary education, and libraries, that are useful for policymaking at the Federal, State, and local levels. In carrying out this section, the Commissioner may provide technical assistance, and make grants and enter into contracts and cooperative agreements.

(b) **MODEL DATA SYSTEM.**—The Commissioner, working through the cooperative education statistics system, shall study, design, and pilot a model data system that will yield information about spending for administration at the school and local education agency levels.

#### SEC. 411. NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS.

(a) **ESTABLISHMENT.**—The Commissioner shall, with the advice of the National Assessment Governing Board established under section 412, and with the technical assistance of the Advisory Council established under section 407, carry out, through grants, contracts, or cooperative agreements with one or more qualified organizations, or consortia thereof, a National Assessment of Educational Progress (hereafter in this title referred to as the "National Assessment").

(b) **PURPOSE; STATE ASSESSMENTS.**—

(1) **PURPOSE.**—The purpose of the National Assessment is to provide a fair and accurate presentation of educational achievement in reading, writing, and the other subjects included in the third National Education Goal, regarding student achievement and citizenship. The Commissioner, in carrying out the National Assessment, shall use sampling techniques that produce data that are representative on a national and regional basis, and on a State basis pursuant to paragraph (2). In addition, the Commissioner shall—

(A) collect and report data on a periodic basis, but at least once every two years, on students at ages 9, 13, and 17 and in grades 4, 8, and 12 in public and private schools;

(B) report achievement data on a basis that ensures valid and reliable trend reporting;

(C) include information on special groups, including, whenever feasible, information collected, cross-tabulated, analyzed, and reported by sex, race or ethnicity and socioeconomic status; and

(D) ensure that achievement data are made available on a timely basis following official reporting, in a manner that facilitates further analysis.

(2) **STATE ASSESSMENTS.**—(A)(i) The Commissioner, in carrying out the National Assessment,

may conduct State assessments of student achievement in grades 4, 8, and 12.

(ii) Each such State assessment, in each subject area and at each grade level, shall be conducted on a developmental basis until the Commissioner determines, as the result of an evaluation required by subsection (f), that such assessment produces high quality data that are valid and reliable.

(B)(i) States wishing to participate in State assessments shall enter into an agreement with the Secretary pursuant to subsection (d)(2).

(ii) Such agreement shall contain information sufficient to give States full information about the process for consensus decisionmaking on objectives to be tested, and the standards for sampling, test administration, test security, data collection, validation, and reporting.

(C) A participating State shall review and give permission for the release of results from any test of its students administered as a part of a State assessment prior to the release of such data. Refusal by a State to release its data shall not restrict the release of data from other States that have approved the release of such data.

(3) **PROHIBITED DATA.**—In carrying out the National Assessment, the Commissioner shall not collect any data that are not directly related to the appraisal of educational performance, achievement, and traditional demographic reporting variables, or to the fair and accurate presentation of such information.

(4) **TECHNICAL ASSISTANCE.**—In carrying out the National Assessment, the Commissioner may provide technical assistance to States, localities, and other parties.

(c) **ACCESS.**—

(1) **PUBLIC ACCESS.**—Except as provided in paragraph (2), the public shall have access to all data, questions, and test instruments of the National Assessment.

(2) **PERSONALLY IDENTIFIABLE INFORMATION.**—(A) The Commissioner shall ensure that all personally identifiable information about students, their educational performance, and their families, and that information with respect to individual schools, remains confidential, in accordance with section 552a of title 5, United States Code.

(B) Notwithstanding any other provision of law, the Commissioner may decline to make available to the public for a period, not to exceed ten years after initial use, cognitive questions that the Commissioner intends to reuse in the future.

(d) **PARTICIPATION.**—

(1) **NATIONAL AND REGIONAL.**—Participation in the national and regional assessments by State and local educational agencies shall be voluntary.

(2) **STATE.**—Participation in assessments made on a State basis shall be voluntary. The Commissioner shall enter into an agreement with any State that desires to carry out an assessment for the State under this subsection. Each such agreement shall contain provisions designed to ensure that the State will—

(A) participate in the assessment; and  
(B) pay from non-Federal sources the non-Federal share of such participation.

(3) **NON-FEDERAL SHARE.**—(A) For each fiscal year, the non-Federal share for the purpose of paragraph (2)(B) shall be—

(i) the cost of conducting the assessment at the school level for all public schools in the State sample;

(ii) the cost of coordination within the State; and

(iii) other reasonable costs specified by the Secretary in the agreement described in paragraph (2), such as the cost of analyzing and reporting the data.

(B) The non-Federal share of payments under this paragraph may be in cash or in kind, fairly valued.

(C) The agreement described in paragraph (2) shall describe the manner in which the costs of administering the assessment to private non-profit schools included in the State sample will be met.

(e) **STUDENT PERFORMANCE LEVELS.**—

(1) **PERFORMANCE LEVELS.**—The National Assessment Governing Board, established under section 412, shall develop appropriate student performance levels for each age and grade in each subject area to be tested under the National Assessment.

(2) **DEVELOPMENT OF LEVELS.**—(A) Such levels shall be—

(i) devised through a national consensus approach, providing for active participation of teachers, curriculum specialists, local school administrators, parents, and concerned members of the general public;

(ii) used on a developmental basis until the Commissioner determines, as the result of an evaluation under subsection (f), that such levels are reasonable, valid, and informative to the public; and

(iii) updated as appropriate.

(B) In using such levels on a developmental basis, the Commissioner and the Board shall ensure that reports that use such levels do so in a manner that makes clear the developmental status of such levels.

(3) **REPORTING.**—After determining that such levels are reasonable, valid, and informative to the public, as the result of an evaluation under subsection (f), the Commissioner shall use such levels or other methods or indicators for reporting results of the National Assessment and State assessments.

(f) **REVIEW OF NATIONAL AND STATE ASSESSMENTS.**—

(1) **IN GENERAL.**—(A) The Secretary shall provide for continuing review of the National Assessment, State assessments, and student performance levels, by one or more nationally recognized evaluation organizations, such as the National Academy of Education and the National Academy of Sciences.

(B) Such continuing review shall address—

(i) whether each developmental State assessment is properly administered, produces high quality data that are valid and reliable, and produces data on student achievement that are not otherwise available to the State (other than data comparing participating States to each other and the Nation); and

(ii) whether developmental student performance levels are reasonable, valid, and informative to the public.

(2) **REPORT.**—The Secretary shall report to the Congress, the President, and the Nation on the findings and recommendations of such reviews.

(3) **USE OF FINDINGS AND RECOMMENDATIONS.**—The Commissioner shall consider the findings and recommendations of such reviews in designing the competition to select the organization, or organizations, through which the Commissioner carries out the National Assessment.

(g) **COVERAGE AGREEMENTS.**—

(1) **DEPARTMENT OF DEFENSE SCHOOLS.**—The Secretary and the Secretary of Defense may enter into an agreement, including such terms as are mutually satisfactory, to include in the National Assessment elementary and secondary schools operated by the Department of Defense.

(2) **BUREAU OF INDIAN AFFAIRS SCHOOLS.**—The Secretary and the Secretary of the Interior may enter into an agreement, including such terms as are mutually satisfactory, to include in the National Assessment schools for Indian children operated or supported by the Bureau of Indian Affairs.

**SEC. 412. NATIONAL ASSESSMENT GOVERNING BOARD.**

(a) **ESTABLISHMENT.**—There is established the National Assessment Governing Board (here-

after in this title referred to as the "Board"), which shall formulate policy guidelines for the National Assessment.

(b) **MEMBERSHIP.**—

(1) **APPOINTMENT AND COMPOSITION.**—The Board shall be appointed by the Secretary and be composed of—

(A) two Governors, or former Governors, who shall not be members of the same political party;

(B) two State legislators, who shall not be members of the same political party;

(C) two chief State school officers;

(D) one superintendent of a local educational agency;

(E) one member of a State board of education;

(F) one member of a local board of education;

(G) three classroom teachers representing the grade levels at which the National Assessment is conducted;

(H) one representative of business or industry;

(I) two curriculum specialists;

(J) three testing and measurement experts, who shall have training and experience in the field of testing and measurement;

(K) one nonpublic school administrator or policymaker;

(L) two school principals, of whom one shall be an elementary school principal and one shall be a secondary school principal; and

(M) four additional members who are representatives of the general public, including parents.

(2) **ASSISTANT SECRETARY FOR EDUCATIONAL RESEARCH.**—The Assistant Secretary for Educational Research and Improvement shall serve as an ex officio, nonvoting member of the Board.

(3) **SPECIAL RULE.**—The Secretary and the Board shall ensure at all times that the membership of the Board reflects regional, racial, gender, and cultural balance and diversity and that the Board exercises its independent judgment, free from inappropriate influences and special interests.

(c) **TERMS.**—

(1) **IN GENERAL.**—Terms of service of members of the Board shall be staggered and may not exceed a period of 3 years, as determined by the Secretary.

(2) **SERVICE LIMITATION.**—Members of the Board may serve not more than two terms.

(3) **CHANGE OF STATUS.**—A member of the Board who changes status under subsection (b) during the term of the appointment of the member may continue to serve as a member until the expiration of such term.

(d) **VACANCIES.**—

(1) **IN GENERAL.**—(A) The Secretary shall appoint new members to fill vacancies on the Board from among individuals who are nominated by organizations representing the type of individuals described in subsection (b)(1) with respect to which the vacancy exists.

(B) Each organization submitting nominations to the Secretary with respect to a particular vacancy shall nominate for such vacancy six individuals who are qualified by experience or training to fill the particular Board vacancy.

(C) The Secretary's appointments shall maintain the composition, diversity, and balance of the Board required under subsection (b).

(2) **ADDITIONAL NOMINATIONS.**—The Secretary may request that each organization described in paragraph (1)(A) submit additional nominations if the Secretary determines that none of the individuals nominated by such organization have appropriate knowledge or expertise.

(e) **DUTIES.**—

(1) **IN GENERAL.**—In carrying out its functions under this section the Board shall—

(A) select subject areas to be assessed (consistent with section 411(b)(1));

(B) develop appropriate student performance levels as provided in section 411(e);

(C) develop assessment objectives and test specifications through a national consensus ap-

proach which includes the active participation of teachers, curriculum specialists, local school administrators, parents, and concerned members of the public;

(D) design the methodology of the assessment, in consultation with appropriate technical experts, including the Advisory Council established under section 407;

(E) develop guidelines for reporting and disseminating results;

(F) develop standards and procedures for interstate, regional, and national comparisons; and

(G) take appropriate actions needed to improve the form and use of the National Assessment.

(2) **DELEGATION.**—The Board may delegate any of the Board's procedural and administrative functions to its staff.

(3) **COGNITIVE ITEMS.**—The Board shall have final authority on the appropriateness of cognitive items.

(4) **PROHIBITION AGAINST BIAS.**—The Board shall take steps to ensure that all items selected for use in the National Assessment are free from racial, cultural, gender, or regional bias.

(5) **TECHNICAL.**—In carrying out the duties required by paragraph (1), the Board may seek technical advice, as appropriate, from the Commissioner and the Advisory Council on Education Statistics and other experts.

(6) **REPORT.**—Not later than 90 days after an evaluation of the student performance levels under section 411(e), the Board shall make a report to the Secretary, the Committee on Education and Labor of the House of Representatives, and the Committee on Labor and Human Resources of the Senate describing the steps the Board is taking to respond to each of the recommendations contained in such evaluation.

(f) **PERSONNEL.**—

(1) **IN GENERAL.**—In the exercise of its responsibilities, the Board shall be independent of the Secretary and the other offices and officers of the Department.

(2) **STAFF.**—(A) The Secretary may appoint, at the request of the Board, such staff as will enable the Board to carry out its responsibilities.

(B) Such appointments may include, for terms not to exceed three years and without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, not more than six technical employees who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(g) **COORDINATION.**—The Commissioner and the Board shall meet periodically—

(1) to ensure coordination of their duties and activities relating to the National Assessment; and

(2) for the Commissioner to report to the Board on the Department's actions to implement the decisions of the Board.

(h) **ADMINISTRATION.**—Only sections 10, 11, and 12 of the Federal Advisory Committee Act shall apply with respect to the Board.

**SEC. 413. AUTHORIZATION OF APPROPRIATIONS.**

(a) **IN GENERAL.**—There are authorized to be appropriated \$65,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years to carry out this title (other than sections 411 and 412).

(b) **NATIONAL ASSESSMENT.**—There are authorized to be appropriated \$35,000,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996 and 1997 to carry out section 411.

(c) **GOVERNING BOARD.**—There are authorized to be appropriated \$3,000,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996 and 1997 to carry out section 412.

**TITLE V—MISCELLANEOUS PROVISIONS**  
**PART A—ALBERT EINSTEIN DISTINGUISHED EDUCATOR FELLOWSHIP ACT**

**SEC. 511. SHORT TITLE.**

This part may be cited as the "Albert Einstein Distinguished Educator Fellowship Act of 1994".

**SEC. 512. FINDINGS.**

The Congress finds that—

(1) the Department of Energy has unique and extensive mathematics and science capabilities that contribute to mathematics and science education programs throughout the Nation;

(2) a need exists to increase understanding, communication, and cooperation between the Congress, the Department of Energy, other Federal agencies, and the mathematics and science education community;

(3) elementary and secondary school mathematics and science teachers can provide practical insight to the legislative and executive branches in establishing and operating education programs; and

(4) a pilot program that placed elementary and secondary school mathematics and science teachers in professional staff positions in the Senate and the House of Representatives has proven successful and demonstrated the value of expanding the program.

**SEC. 513. PURPOSE; DESIGNATION.**

(a) **PURPOSE.**—The purpose of this part is to establish within the Department of Energy a national fellowship program for elementary and secondary school mathematics and science teachers.

(b) **DESIGNATION.**—A recipient of a fellowship under this part shall be known as an "Albert Einstein Fellow".

**SEC. 514. DEFINITIONS.**

As used in this part—

(1) the term "elementary school" has the meaning provided by section 14101 of the Elementary and Secondary Education Act of 1965;

(2) the term "local educational agency" has the meaning provided by section 14101 of the Elementary and Secondary Education Act of 1965;

(3) the term "secondary school" has the meaning provided by section 14101 of the Elementary and Secondary Education Act of 1965; and

(4) the term "Secretary" means the Secretary of Energy.

**SEC. 515. FELLOWSHIP PROGRAM.**

(a) **IN GENERAL.**—

(1) **ESTABLISHMENT.**—The Secretary shall establish the Albert Einstein Distinguished Educator Fellowship Program (hereafter in this part referred to as the "Program") to provide 12 elementary or secondary school mathematics or science teachers with fellowships in each fiscal year in accordance with this part.

(2) **ORDER OF PRIORITY.**—The Secretary may reduce the number of fellowships awarded under this part for any fiscal year in which the amount appropriated for the Program is insufficient to support 12 fellowships. If the number of fellowships awarded under this part is reduced for any fiscal year, then the Secretary shall award fellowships based on the following order of priority:

(A) Three fellowships in the Department of Energy.

(B) Two fellowships in the Senate.

(C) Two fellowships in the House of Representatives.

(D) One fellowship in each of the following entities:

(i) The Department of Education.

(ii) The National Institutes of Health.

(iii) The National Science Foundation.

(iv) The National Aeronautics and Space Administration.

(v) The Office of Science and Technology Policy.

(3) **TERMS OF FELLOWSHIPS.**—Each fellowship awarded under this part shall be awarded for a period of ten months that, to the extent practicable, coincide with the academic year.

(4) **ELIGIBILITY.**—To be eligible for a fellowship under this part, an elementary or secondary school mathematics or science teacher must demonstrate—

(A) that such teacher would bring unique and valuable contributions to the Program;

(B) that such teacher is recognized for excellence in mathematics or science education; and

(C)(i) a sabbatical leave from teaching will be granted in order to participate in the Program; or

(ii) the teacher will return to a teaching position comparable to the position held prior to participating in the Program.

(b) **ADMINISTRATION.**—The Secretary shall—

(1) provide for the development and administration of an application and selection process for fellowships under the Program, including a process whereby final selections of fellowship recipients are made in accordance with subsection (c);

(2) provide for the publication of information on the Program in appropriate professional publications, including an invitation for applications from teachers listed in the directories of national and State recognition programs;

(3) select from the pool of applicants 12 elementary and secondary school mathematics teachers and 12 elementary and secondary school science teachers;

(4) develop a program of orientation for fellowship recipients under this part; and

(5) not later than August 31 of each year in which fellowships are awarded, prepare and submit an annual report and evaluation of the Program to the appropriate Committees of the Senate and the House of Representatives.

(c) **SELECTION.**—

(1) **IN GENERAL.**—The Secretary shall arrange for the 24 semifinalists to travel to Washington, D.C., to participate in interviews in accordance with the selection process described in paragraph (2).

(2) **FINAL SELECTION.**—(A) Not later than May 1 of each year preceding each year in which fellowships are to be awarded, the Secretary shall select and announce the names of the fellowship recipients.

(B) The Secretary shall provide for the development and administration of a process to select fellowship recipients from the pool of semifinalists as follows:

(i) The Secretary shall select three fellowship recipients who shall be assigned to the Department of Energy.

(ii) The Majority Leader of the Senate and the Minority Leader of the Senate, or their designees, shall each select a fellowship recipient who shall be assigned to the Senate.

(iii) The Speaker of the House of Representatives and the Minority Leader of the House of Representatives, or their designees, shall each select a fellowship recipient who shall be assigned to the House of Representatives.

(iv) Each of the following individuals, or their designees, shall select one fellowship recipient who shall be assigned within the department, office, agency, or institute such individual administrators:

(I) The Secretary of Education.

(II) The Director of the National Institutes of Health.

(III) The Director of the National Science Foundation.

(IV) The Administrator of the National Aeronautics and Space Administration.

(V) The Director of the Office of Science and Technology Policy.

**SEC. 516. FELLOWSHIP AWARDS.**

(a) **FELLOWSHIP RECIPIENT COMPENSATION.**—Each recipient of a fellowship under this part

shall be paid during the fellowship period at a rate of pay that shall not exceed the minimum annual rate payable for a position under GS-13 of the General Schedule.

(b) **LOCAL EDUCATIONAL AGENCY.**—The Secretary shall seek to ensure that no local educational agency penalizes a teacher who elects to participate in the Program.

**SEC. 517. WASTE MANAGEMENT EDUCATION RESEARCH CONSORTIUM (WERC).**

(a) **IN GENERAL.**—The Secretary is authorized to establish a partnership of Department of Energy laboratories, academic institutions, and private sector industries to conduct environmentally-related education programs, including programs involving environmentally conscious manufacturing and waste management activities that have undergraduate and graduate educational training as a component.

**SEC. 518. AUTHORIZATION OF APPROPRIATIONS.**

(a) There are authorized to be appropriated for the Program \$700,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years.

(b) **WERC PROGRAM.**—There are authorized to be appropriated for the WERC program under section 517 such sums as may be necessary for fiscal year 1995 and each of the four succeeding fiscal years.

**PART B—COMMUNITY SCHOOL PARTNERSHIPS**

**SEC. 521. SHORT TITLE.**

This part may be cited as the "Community School Partnership Act".

**SEC. 522. FINDINGS.**

The Congress finds that—

(1) the local community, when properly organized and challenged, is one of the best sources of academic support, motivation toward achievement, and financial resources for aspiring postsecondary students;

(2) local communities, working to complement or augment services currently being offered by area schools and colleges, can raise the educational expectations and increase the rate of postsecondary attendance of their youth by forming locally based organizations that provide both academic support (including guidance, counseling, mentoring, tutoring, encouragement, and recognition) and tangible, locally raised, effectively targeted, publicly recognized financial assistance;

(3) proven methods of stimulating these community efforts can be promoted through Federal support for the establishment of area program centers to organize and challenge community efforts to develop educational incentives and support for local students; and

(4) using Federal funds to leverage private contributions to help students from low-income families attain educational and career goals is an efficient and effective investment of scarce taxpayer-provided resources.

**SEC. 523. DEFINITIONS.**

As used in this part:

(1) **AREA PROGRAM CENTER.**—The term "area program center" means an organization that—

(A) is part of, responsible to, and overseen by, the national organization; and

(B) is staffed by professionals trained to create, develop, and sustain local affiliated chapters in towns, cities, and neighborhoods.

(2) **LOCAL AFFILIATED CHAPTER.**—The term "local affiliated chapter" means an organization that—

(A) is a nonprofit organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986, and exempt from taxation under section 501(a) of such Code (or shall meet this criteria through affiliation with the national organization described in paragraph (3));

(B) is formed for the purpose of providing educational scholarships and academic support for

residents of the local community served by such organization;

(C) solicits broad-based community support in its academic support and fund-raising activities;

(D) is broadly representative of the local community in the structures of its volunteer-operated organization and has a board of directors that includes leaders from local neighborhood organizations and neighborhood residents, such as school or college personnel, parents, students, community agency representatives, and representatives of the business community;

(E) awards scholarships without regard to age, sex, marital status, race, creed, color, religion, national origin or disability; and

(F) gives priority in awarding scholarships to students from low-income families in the local community.

(3) **NATIONAL ORGANIZATION.**—The term "national organization" means an organization that—

(A) has the capacity to create, develop and sustain local affiliated chapters;

(B) has the capacity to sustain newly created local affiliated chapters in towns, cities, and neighborhoods through ongoing training and support programs;

(C) is described in section 501(c)(3) of the Internal Revenue Code of 1986, and exempt from taxation under section 501(a) of such Code;

(D) is a publicly supported organization within the meaning of section 170(b)(1)(A)(vi) of such Code;

(E) ensures that each of its local affiliated chapters meet the criteria described in subparagraphs (C) and (D); and

(F) has a program for or experience in cooperating with secondary and postsecondary institutions in carrying out its scholarship and academic support activities.

(4) **HIGH-POVERTY AREA.**—The term "high-poverty area" means a community with a higher percentage of children in poverty than the national average of such percentage.

(5) **STUDENTS FROM LOW-INCOME FAMILIES.**—The term "students from low-income families" means students determined, pursuant to part F of title IV of the Higher Education Act of 1965, to be eligible for a Federal Pell Grant under subpart 1 of part A of title IV of such Act.

**SEC. 524. PURPOSE, ENDOWMENT GRANT AUTHORITY.**

(a) **PURPOSE.**—It is the purpose of this part to establish and support area program centers to enable such centers to foster the development of local affiliated chapters in high-poverty areas that promote higher education goals for students from low-income families by—

(1) providing academic support, including guidance, counseling, mentoring, tutoring, and recognition; and

(2) providing scholarship assistance for the pursuit of postsecondary education.

(b) **ENDOWMENT GRANT AUTHORITY.**—From the funds appropriated pursuant to the authority of section 527, the Secretary shall award an endowment grant, on a competitive basis, to a national organization to enable such organization to support the establishment or ongoing work of area program centers that foster the development of local affiliated chapters in high-poverty areas to improve high school graduation rates and postsecondary attendance through the provision of academic support services and scholarship assistance for the pursuit of postsecondary education.

**SEC. 525. GRANT AGREEMENT AND REQUIREMENTS.**

(a) **IN GENERAL.**—The Secretary shall award the endowment grant described in section 524(b) pursuant to an agreement between the Secretary and the national organization. Such agreement shall—

(1) require the national organization to establish an endowment fund in the amount of the

grant, the corpus of which shall remain intact and the interest income from which shall be used to support the activities described in paragraphs (2) and (3);

(2) require the national organization to use 25 percent of the interest income from the endowment fund in any fiscal year to provide scholarships for students from low-income families, which scholarships shall be matched on a dollar-for-dollar basis from funds raised by local affiliated chapters;

(3) require the national organization to use 75 percent of the interest income from the endowment fund in any fiscal year to support the establishment or ongoing work of area program centers to enable such centers to work with local communities to establish local affiliated chapters in high-poverty areas and provide ongoing technical assistance, training workshops, and other activities to help ensure the ongoing success of the local affiliated chapters;

(4) require the area program centers supported by the national organization to give priority to establishing local affiliated chapters that serve high-poverty areas;

(5) require the national organization to submit, in each fiscal year in which such organization uses the interest from the endowment fund, a report to the Secretary that contains—

(A) a description of the programs and activities supported by the interest on the endowment fund;

(B) the audited financial statement of the national organization for the preceding fiscal year;

(C) a plan for the programs and activities to be supported from the interest on the endowment fund during the five succeeding fiscal years;

(D) an evaluation of the programs and activities supported by the interest on the endowment fund as the Secretary may require; and

(E) data indicating the number of students from low-income families who received scholarships from local affiliated chapters, and the amounts of such scholarships;

(6) contain such assurances as the Secretary may require with respect to the management and operation of the endowment fund;

(7) require that, in order to continue using the interest from the endowment fund, the national organization will meet the continuing eligibility requirements described in section 526; and

(8) contain an assurance that if the Secretary determines that such organization is not in substantial compliance with the provisions of this part, then the national organization shall pay to the Secretary an amount equal to the corpus of the endowment fund plus any accrued interest on such fund that is available to the national organization on the date of such determination.

(b) **RETURNED FUNDS.**—All funds returned to the Secretary pursuant to subsection (a)(8) shall be available to the Secretary to carry out any scholarship or grant program assisted under title IV of the Higher Education Act of 1965.

**SEC. 526. CONTINUING ELIGIBILITY.**

The national organization shall be eligible to continue to use the interest from the endowment fund in accordance with the provisions of this part in the third and each such succeeding fiscal year in which such organization uses such interest only if the local affiliated chapters associated with all area program centers supported under this part distribute to students from low-income families 80 percent of the total amount of funds raised by all such chapters in such year.

**SEC. 527. AUTHORIZATION OF APPROPRIATIONS.** There are authorized to be appropriated \$10,000,000 for fiscal year 1996 to carry out this part.

**PART C—1994 INSTITUTIONS**

**SEC. 531. SHORT TITLE.**

This part may be cited as the "Equity in Educational Land-Grant Status Act of 1994".

**SEC. 532. DEFINITION.**

As used in this part, the term "1994 Institutions" means any one of the following colleges:

- (1) Bay Mills Community College.
- (2) Blackfeet Community College.
- (3) Cheyenne River Community College.
- (4) D-Q University.
- (5) Dullknife Memorial College.
- (6) Fond Du Lac Community College.
- (7) Fort Belknap Community College.
- (8) Fort Berthold Community College.
- (9) Fort Peck Community College.
- (10) LacCourte Orielles Ojibwa Community College.
- (11) Little Big Horn Community College.
- (12) Little Hoop Community College.
- (13) Nebraska Indian Community College.
- (14) Northwest Indian College.
- (15) Oglala Lakota College.
- (16) Salish Kootenai College.
- (17) Sinte Gleska University.
- (18) Sisseton Wahpeton Community College.
- (19) Standing Rock College.
- (20) Stonechild Community College.
- (21) Turtle Mountain Community College.
- (22) Navajo Community College.
- (23) United Tribes Technical College.
- (24) Southwest Indian Polytechnic Institute.
- (25) Institute of American Indian and Alaska Native Culture and Arts Development.
- (26) Crownpoint Institute of Technology.
- (27) Haskell Indian Junior College.
- (28) Leech Lake Tribal College.
- (29) College of the Menominee Nation.

**SEC. 533. LAND-GRANT STATUS FOR 1994 INSTITUTIONS.**

(a) **IN GENERAL.**—

(1) **STATUS OF 1994 INSTITUTIONS.**—Except as provided in paragraph (2), 1994 Institutions shall be considered land-grant colleges established for the benefit of agriculture and the mechanic arts in accordance with the provisions of the Act of July 2, 1862 (12 Stat. 503; 7 U.S.C. 301 et seq.) (commonly known as the First Morrill Act).

(2) 1994 INSTITUTIONS.—(A) 1994 Institutions shall not be considered as land-grant colleges that are eligible to receive funding under—

(i) the Act of March 2, 1887 (24 Stat. 440, chapter 314; 7 U.S.C. 361a et seq.);

(ii) the Act of May 8, 1914 (38 Stat. 373, chapter 79; 7 U.S.C. 343), except as provided under section 3(b)(3) of such Act (as added by section 534(b)(1) of this part); or

(iii) the Act of August 30, 1890 (26 Stat. 417, chapter 84; 7 U.S.C. 321 et seq.) (commonly known as the Second Morrill Act.)

(B) In lieu of receiving donations under the provisions of the Act of July 2, 1862 (12 Stat. 503; 7 U.S.C. 301 et seq.) (commonly known as the First Morrill Act), relating to the donations of public land or scrip for the endowment and maintenance of colleges for the benefit of agriculture and the mechanic arts, 1994 Institutions shall receive funding pursuant to the authorization under subsection (b).

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated \$4,600,000 for each of fiscal years 1996 through 2000. Amounts appropriated pursuant to this section shall be held and considered to have been granted to 1994 Institutions to establish an endowment pursuant to subsection (c).

(c) **ENDOWMENT.**—

(1) **IN GENERAL.**—In accordance with this subsection, the Secretary of the Treasury shall establish a 1994 Institutions Endowment Fund (hereafter in this subsection referred to as the "endowment fund"). The Secretary may enter into such agreements as are necessary to carry out this subsection.

(2) **DEPOSIT TO THE ENDOWMENT FUND.**—The Secretary shall deposit in the endowment fund any—

(A) amounts made available by appropriations pursuant to subsection (b) (hereafter in this subsection referred to as the "endowment fund corpus"); and

(B) interest earned on the endowment fund corpus.

(3) INVESTMENTS.—The Secretary shall invest the endowment fund corpus and income in interest-bearing obligations of the United States.

(4) WITHDRAWALS AND EXPENDITURES.—The Secretary may not make a withdrawal or expenditure from the endowment fund corpus. On the termination of each fiscal year, the Secretary shall withdraw the amount of the income from the endowment fund for the fiscal year, and after making adjustments for the cost of administering the endowment fund, distribute the adjusted income as follows:

(A) 60 percent of the adjusted income shall be distributed among the 1994 Institutions on a pro rata basis. The proportionate share of the adjusted income received by a 1994 Institution under this subparagraph shall be based on the Indian student count (as defined in section 390(3) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2397h(3)) for each 1994 Institution for the fiscal year.

(B) 40 percent of the adjusted income shall be distributed in equal shares to the 1994 Institutions.

#### SEC. 534. APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—For fiscal year 1996, and for each fiscal year thereafter, there are authorized to be appropriated to the Department of the Treasury an amount equal to—

(A) \$50,000; multiplied by

(B) the number of 1994 Institutions.

(2) PAYMENTS.—For each fiscal year, the Secretary of the Treasury shall pay to the treasurer of each 1994 Institution an amount equal to—

(A) the total amount made available by appropriations pursuant to paragraph (1); divided by

(B) the number of 1994 Institutions.

(3) USE OF FUNDS; REQUIREMENTS.—The amounts authorized to be appropriated under this subsection shall be used in the same manner as is prescribed for colleges under the Act of August 30, 1890 (26 Stat. 417, chapter 841; 7 U.S.C. 321 et seq.) (commonly known as the Second Morrill Act), and, except as otherwise provided in this subsection, the requirements of such Act shall apply to 1994 Institutions.

(b) FUNDING.—Section 3 of the Act of May 8, 1914 (38 Stat. 373, chapter 79; 7 U.S.C. 343) is amended—

(1) in subsection (b), by adding at the end the following new paragraph:

"(3) There are authorized to be appropriated for the fiscal year ending June 30, 1996, and for each fiscal year thereafter, for payment on behalf of the 1994 Institutions (as defined in section 532 of the Equity in Educational Land-Grant Status Act of 1994), \$5,000,000 for the purposes set forth in section 2. Such sums shall be in addition to the sums appropriated for the several States and Puerto Rico, the Virgin Islands, and Guam under the provisions of this section. Such sums shall be distributed on the basis of a competitive application process to be developed and implemented by the Secretary and paid by the Secretary to State institutions established in accordance with the provisions of the Act of July 2, 1862 (12 Stat. 503, chapter 130; 7 U.S.C. 301 et seq.) (commonly known as the First Morrill Act) (other than 1994 Institutions) and administered by such institutions through cooperative agreements with 1994 Institutions in the States of the 1994 Institutions in accordance with regulations that the Secretary shall adopt."

(2) by redesignating subsection (f) as subsection (g); and

(3) by inserting after subsection (e) the following new subsection:

"(f) There shall be no matching requirement for funds made available pursuant to subsection (b)(3)."

#### SEC. 535. INSTITUTIONAL CAPACITY BUILDING GRANTS.

(a) DEFINITIONS.—As used in this section:

(1) FEDERAL SHARE.—The term "Federal share" means, with respect to a grant awarded under subsection (b), the share of the grant that is provided from Federal funds.

(2) NON-FEDERAL SHARE.—The term "non-Federal share" means, with respect to a grant awarded under subsection (b), the matching funds paid with funds other than funds referred to in paragraph (1), as determined by the Secretary.

(3) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(b) IN GENERAL.—

(1) INSTITUTIONAL CAPACITY BUILDING GRANTS.—For each of fiscal years 1996 through 2000, the Secretary shall make two or more institutional capacity building grants to assist 1994 Institutions with constructing, acquiring, and remodeling buildings, laboratories, and other capital facilities (including fixtures and equipment) necessary to conduct instructional activities more effectively in agriculture and sciences.

(2) REQUIREMENTS FOR GRANTS.—The Secretary shall make grants under this section—

(A) on the basis of a competitive application process under which appropriate officials of 1994 Institutions may submit applications to the Secretary in such form and manner as the Secretary may prescribe; and

(B) in such manner as to ensure geographic diversity with respect to the 1994 Institutions that are the subject of the grants.

(3) DEMONSTRATION OF NEED.—The Secretary shall require, as part of an application for a grant under this subsection, a demonstration of need. The Secretary may only award a grant under this subsection to an applicant that demonstrates a failure to obtain funding for a project after making a reasonable effort to otherwise obtain the funding.

(4) PAYMENT OF NON-FEDERAL SHARE.—A grant awarded under this subsection shall be made only if the recipient of the grant pays a non-Federal share in an amount specified by the Secretary.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Agriculture to carry out this section, \$1,700,000 for each of fiscal years 1996 through 2000.

#### PART D—WORKERS TECHNOLOGY SKILL DEVELOPMENT

##### SEC. 541. SHORT TITLE.

This part may be cited as the "Workers Technology Skill Development Act".

##### SEC. 542. FINDINGS.

The Congress finds and declares the following:

(1) In an increasingly competitive world economy, the companies and nations that lead in the rapid development, commercialization, and application of new and advanced technologies, and in the high-quality, competitively priced production of goods and services, will lead in economic growth, employment, and high living standards.

(2) While the United States remains the world leader in science and invention, it has not done well in rapidly making the transition from achievement in its research laboratories to high-quality, competitively priced production of goods and services. This lag and the unprecedented competitive challenge that the United States has faced from abroad have contributed to a drop in real wages and living standards.

(3) Companies that are successfully competitive in the rapid development, commercialization, application, and implementation of advanced technologies, and in the successful delivery of goods and services, recognize that worker participation and labor-management cooperation in the deployment, application, and implementation of advanced workplace technologies make an important contribution to high-quality, competitively priced production of goods and services and in maintaining and improving real wages for workers.

(4) The Federal Government has an important role in encouraging and augmenting private sector efforts relating to the development, application, manufacture, and deployment of new and advanced technologies. The role should be to—

(A) work with private companies, States, worker organizations, nonprofit organizations, and institutions of higher education to ensure the development, application, production, and implementation of new and advanced technologies to promote the improvement of workers' skills, wages, job security, and working conditions, and a healthy environment;

(B) encourage worker and worker organization participation in the development, commercialization, evaluation, selection, application, and implementation of new and advanced technologies in the workplace; and

(C) promote the use and integration of new and advanced technologies in the workplace that enhance workers' skills.

(5) In working with the private sector to promote the technological leadership and economic growth of the United States, the Federal Government has a responsibility to ensure that Federal technology programs help the United States to remain competitive and to maintain and improve living standards and to create and retain secure jobs in economically stable communities.

##### SEC. 543. PURPOSES.

The purposes of this part are to—

(1) improve the ability of workers and worker organizations to recognize, develop, assess, and improve strategies for successfully integrating workers and worker organizations into the process of evaluating, selecting, and implementing advanced workplace technologies, and advanced workplace practices in a manner that creates and maintains stable well-paying jobs for workers; and

(2) assist workers and worker organizations in developing the expertise necessary for effective participation with employers in the development of strategies and programs for the successful evaluation, selection, and implementation of advanced workplace technologies and advanced workplace practices through the provision of a range of education, training, and related services.

##### SEC. 544. DEFINITIONS.

As used in this part:

(1) ADVANCED WORKPLACE PRACTICES.—The term "advanced workplace practices" means innovations in work organization and performance, including high-performance workplace systems, flexible production techniques, quality programs, continuous improvement, concurrent engineering, close relationships between suppliers and customers, widely diffused decisionmaking and work teams, and effective integration of production technology, worker skills and training, and workplace organization, and such other characteristics as determined appropriate by the Secretary of Labor, in consultation with the Secretary of Commerce.

(2) ADVANCED WORKPLACE TECHNOLOGIES.—The term "advanced workplace technologies" includes—

(A) numerically controlled machine tools, robots, automated process control equipment, computerized flexible manufacturing systems, associated computer software, and other technology

for improving the manufacturing and industrial production of goods and commercial services, which advance the state-of-the-art; or

(B) novel industrial and commercial techniques and processes not previously generally available that improve quality, productivity, and practices, including engineering design, quality assurance, concurrent engineering, continuous process production technology, inventory management, upgraded worker skills, communications with customers and suppliers, and promotion of sustainable economic growth.

(3) DEPARTMENT.—The term "Department" means the Department of Labor.

(4) NONPROFIT ORGANIZATION.—The term "nonprofit organization" means a tax-exempt organization, as described in paragraph (3), (4), or (5) of section 501(c) of the Internal Revenue Code of 1986.

(5) SECRETARY.—The term "Secretary" means the Secretary of Labor.

(6) WORKER ORGANIZATION.—The term "worker organization" means a labor organization within the meaning of section 501(c)(5) of the Internal Revenue Code of 1986.

#### SEC. 545. GRANTS.

(a) IN GENERAL.—The Secretary of Labor, after consultation with the Secretary of Commerce, shall, to the extent appropriations are available, award grants to eligible entities to carry out the purposes described in section 543.

(b) ELIGIBILITY.—To be eligible to receive a grant under this section, an entity shall—

(1) be a nonprofit organization, or a partnership consortium of such organizations;

(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a description of the activities that the entity will carry out using amounts received under the grant; and

(3) agree to make available (directly or through donations from public or private entities) non-Federal contributions toward the costs of the activities to be conducted with grant funds, in an amount equal to the amount required under subsection (d).

(c) USE OF AMOUNTS.—An entity shall use amounts received under a grant awarded under this section to carry out the purposes described in section 543 through activities such as—

(1) the provision of technical assistance to workers, worker organizations, employers, State economic development agencies, State industrial extension programs, Advanced Technology Centers, and National Manufacturing Technology Centers to identify advanced workplace practices and strategies that enhance the effective evaluation, selection, and implementation of advanced workplace technologies;

(2) the researching and identification of new and advanced workplace technologies, and advanced workplace practices that promote the improvement of workers' skills, wages, working conditions, and job security, that research the link between advanced workplace practices and long-term corporate performance, and which are consistent with the needs of local communities and the need for a healthy environment; and

(3) the development and dissemination of training programs and materials to be used for and by workers, worker organizations, employers, State economic development agencies, State industrial extension programs, Advanced Technology Centers, and National Manufacturing Technology Centers relating to the activities and services provided pursuant to paragraphs (1) and (2), and regarding successful practices including practices which address labor-management cooperation and the involvement of workers in the design, development, and implementation of workplace practices and technologies.

(d) TERMS OF GRANTS AND NON-FEDERAL SHARES.—

(1) TERMS.—Grants awarded under this section shall be for a term not to exceed six years.

(2) NON-FEDERAL SHARE.—Amounts required to be contributed by an entity under subsection (b)(3) shall equal—

(A) an amount equal to 15 percent of the amount provided under the grant in the first year for which the grant is awarded;

(B) an amount equal to 20 percent of the amount provided under the grant in the second year for which the grant is awarded;

(C) an amount equal to 33 percent of the amount provided under the grant in the third year for which the grant is awarded;

(D) an amount equal to 40 percent of the amount provided under the grant in the fourth year for which the grant is awarded; and

(E) an amount equal to 50 percent of the amount provided under the grant in the fifth and sixth years for which the grant is awarded.

(e) EVALUATION.—The Department shall develop mechanisms for evaluating the effectiveness of the use of a grant awarded under this section in carrying out the purposes under section 543 and, not later than two years after the date of enactment of this Act, and every two years thereafter, prepare and submit a report to Congress concerning such evaluation.

#### SEC. 546. IDENTIFICATION AND DISSEMINATION OF BEST PRACTICES.

(a) IN GENERAL.—

(1) INFORMATION.—The Secretary, in cooperation and after consultation with the Secretary of Commerce, shall assist workers, worker organizations, and employers in successfully adopting advanced workplace technologies, and advanced workplace practices by identifying, collecting, and disseminating information on best workplace practices and workplace assessment tools, including—

(A) methods, techniques, and successful models of labor-management cooperation and of worker and worker organization participation in the development, evaluation, selection, and implementation of new and advanced workplace technologies, and advanced workplace practices;

(B) methods, techniques, and successful models for the design and implementation of new and advanced workplace practices;

(C) methods, techniques, and successful models for the design and implementation of advanced forms of work organization; and

(D) methods, techniques, and successful models for the assessment of worker skills and training needs relating to the effective development, evaluation, selection, and implementation of advanced workplace technologies, and advanced workplace practices.

(2) CONTENTS.—Such information on best workplace practices shall include—

(A) summaries and analyses of best practice cases;

(B) criteria for assessment of current workplace practices; and

(C) information on the best available education and training materials and services relating to the development, implementation, and operation of systems utilizing new and advanced workplace technologies, and advanced workplace practices.

(b) DISTRIBUTION.—The information and materials developed under this section shall be distributed through an appropriate entity designated by the Secretary of Commerce to the Regional Centers for the Transfer of Manufacturing Technology, to the Manufacturing Outreach Center, to other technology training entities, and directly to others as determined appropriate by the Secretary of Labor and the Secretary of Commerce.

#### SEC. 547. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this part such sums as may be necessary for each of the fiscal years 1995 through 1997.

(b) AVAILABILITY.—Amounts appropriated under subsection (a) shall remain available until expended.

### PART E—MULTIETHNIC PLACEMENT

#### Subpart 1—Multiethnic Placement

##### SEC. 551. SHORT TITLE.

This subpart may be cited as the "Howard M. Metzenbaum Multiethnic Placement Act of 1994".

##### SEC. 552. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) nearly 500,000 children are in foster care in the United States;

(2) tens of thousands of children in foster care are waiting for adoption;

(3) 2 years and 8 months is the median length of time that children wait to be adopted;

(4) child welfare agencies should work to eliminate racial, ethnic, and national origin discrimination and bias in adoption and foster care recruitment, selection, and placement procedures; and

(5) active, creative, and diligent efforts are needed to recruit foster and adoptive parents of every race, ethnicity, and culture in order to facilitate the placement of children in foster and adoptive homes which will best meet each child's needs.

(b) PURPOSE.—It is the purpose of this subpart to promote the best interests of children by—

(1) decreasing the length of time that children wait to be adopted;

(2) preventing discrimination in the placement of children on the basis of race, color, or national origin; and

(3) facilitating the identification and recruitment of foster and adoptive families that can meet children's needs.

##### SEC. 553. MULTIETHNIC PLACEMENTS.

(a) ACTIVITIES.—

(1) PROHIBITION.—An agency, or entity, that receives Federal assistance and is involved in adoption or foster care placements may not—

(A) categorically deny to any person the opportunity to become an adoptive or a foster parent, solely on the basis of the race, color, or national origin of the adoptive or foster parent, or the child, involved; or

(B) delay or deny the placement of a child for adoption or into foster care, or otherwise discriminate in making a placement decision, solely on the basis of the race, color, or national origin of the adoptive or foster parent, or the child, involved.

(2) PERMISSIBLE CONSIDERATION.—An agency or entity to which paragraph (1) applies may consider the cultural, ethnic, or racial background of the child and the capacity of the prospective foster or adoptive parents to meet the needs of a child of this background as one of a number of factors used to determine the best interests of a child.

(3) DEFINITION.—As used in this subsection, the term "placement decision" means the decision to place, or to delay or deny the placement of, a child in a foster care or an adoptive home, and includes the decision of the agency or entity involved to seek the termination of birth parent rights or otherwise make a child legally available for adoptive placement.

(b) EQUITABLE RELIEF.—Any individual who is aggrieved by an action in violation of subsection (a), taken by an agency or entity described in subsection (a), shall have the right to bring an action seeking relief in a United States district court of appropriate jurisdiction.

(c) FEDERAL GUIDANCE.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall publish guidance to concerned public and private agencies and entities with respect to compliance with this subpart.

(d) DEADLINE FOR COMPLIANCE.—

(1) *IN GENERAL.*—Except as provided in paragraph (2), an agency or entity that receives Federal assistance and is involved with adoption or foster care placements shall comply with this subpart not later than six months after publication of the guidance referred to in subsection (c), or one year after the date of enactment of this Act, whichever occurs first.

(2) *AUTHORITY TO EXTEND DEADLINE.*—If a State demonstrates to the satisfaction of the Secretary that it is necessary to amend State statutory law in order to change a particular practice that is inconsistent with this subpart, the Secretary may extend the compliance date for the State a reasonable number of days after the close of the first State legislative session beginning after the date the guidance referred to in subsection (c) is published.

(e) *NONCOMPLIANCE DEEMED A CIVIL RIGHTS VIOLATION.*—Noncompliance with this subpart is deemed a violation of title VI of the Civil Rights Act of 1964.

(f) *NO EFFECT ON INDIAN CHILD WELFARE ACT OF 1978.*—Nothing in this section shall be construed to affect the application of the Indian Child Welfare Act of 1978 (25 U.S.C. 1901 et seq.).

**SEC. 554. REQUIRED RECRUITMENT EFFORTS FOR CHILD WELFARE SERVICES PROGRAMS.**

Section 422(b) of the Social Security Act (42 U.S.C. 622(b)) is amended—

(1) by striking "and" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting "; and"; and

(3) by adding at the end the following:

"(9) provide for the diligent recruitment of potential foster and adoptive families that reflect the ethnic and racial diversity of children in the State for whom foster and adoptive homes are needed."

**Subpart 2—Other Provision**

**SEC. 555. EFFECT OF FAILURE TO CARRY OUT STATE PLAN.**

(a) *IN GENERAL.*—Part A of title XI of the Social Security Act (42 U.S.C. 1301–1320b–13) is amended by inserting after section 1122 the following:

**"SEC. 1123. EFFECT OF FAILURE TO CARRY OUT STATE PLAN.**

"In an action brought to enforce a provision of the Social Security Act, such provision is not to be deemed unenforceable because of its inclusion in a section of the Act requiring a State plan or specifying the required contents of a State plan. This section is not intended to limit or expand the grounds for determining the availability of private actions to enforce State plan requirements other than by overturning any such grounds applied in *Suter v. Artist M.*, 112 S. Ct. 1360 (1992), but not applied in prior Supreme Court decisions respecting such enforceability; provided, however, that this section is not intended to alter the holding in *Suter v. Artist M.* that section 471(a)(15) of the Act is not enforceable in a private right of action.

(b) *APPLICABILITY.*—The amendment made by subsection (a) shall apply to actions pending on the date of the enactment of this Act and to actions brought on or after such date of enactment.

**PART F—MISCELLANEOUS**

**SEC. 561. BUDGET COMPLIANCE.**

Any authority or requirement to make funds available under this Act shall be effective only to the extent provided in appropriations Acts.

**SEC. 562. DOCUMENTS TRANSMITTED TO CONGRESS.**

In documents transmitted to Congress explaining the President's budget request for the Special Education account, the Department of Education shall display amounts included in the re-

quest to reflect the incorporation of the program for children with disabilities under part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as such part was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994).

**SEC. 563. VOCATIONAL EDUCATION REGULATIONS.**

(a) *IN GENERAL.*—Notwithstanding any other provision of law, beginning on the date of enactment of this Act, and ending on the date of enactment of an Act reauthorizing the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.) the Department of Education's interpretation of the Carl D. Perkins Vocational and Applied Technology Act relating to—

(1) the access or participation of members of special populations in vocational education, including the provision of supplementary services and the cost of such services; and

(2) the conduct of local evaluations, that are contained in the final regulations published in the Federal Register on August 14, 1992, shall remain in effect.

(b) *SPECIAL RULE.*—The Secretary of Education may not issue additional regulations concerning the final regulations described in subsection (a)(2).

**SEC. 564. RATE OF PAY FOR THE DEPUTY DIRECTOR OF THE NATIONAL INSTITUTE ON DISABILITY AND REHABILITATION RESEARCH.**

Notwithstanding section 202(c)(2) of the Rehabilitation Act of 1973 (29 U.S.C. 761a(c)(2)), the Secretary of Education is authorized to compensate any individual appointed during calendar year 1994 to be the Deputy Director of the National Institute on Disability and Rehabilitation Research at the rate of basic pay for a position at ES-5 of the Senior Executive Service Schedule.

**SEC. 565. STUDY.**

The Secretary of the Interior shall conduct a study, in consultation with the board of regents of the Haskell Indian Junior College to evaluate the possible need for alternative institutional and administrative systems at Haskell Indian Junior College to support the transition of such college to a four year university. If the study's conclusions require legislation to be implemented, the study shall be accompanied by appropriate draft legislation. Such study shall be transmitted to the Committee on Indian Affairs of the Senate and the Committee on Education and Labor of the House of Representatives by June 1, 1995.

**SEC. 566. THERAPEUTIC MODEL DEMONSTRATION SCHOOLS.**

(a) *AUTHORIZATION.*—

(1) *IN GENERAL.*—The Secretary of the Interior, acting through the Bureau of Indian Affairs, is authorized to establish demonstration schools, based on the therapeutic model described in this section, to provide services necessary to achieve positive changes in the attitudes, behavior, and academic performance of Indian youth attending off-reservation boarding schools.

(2) *PURPOSE.*—The purpose of the therapeutic model demonstration schools is—

(A) to provide a program, based on an annual written plan, linking clinicians, counselors, and mental health professionals with academic program personnel in a culturally sensitive residential program tailored to the particular needs of Indian students;

(B) to provide for a continued evaluation of the planning and implementation of the therapeutic model in the designated schools; and

(C) to determine what steps the Bureau of Indian Affairs must take and what resources are required to transform existing off-reservation

boarding schools to meet the needs of chemically dependent, emotionally disturbed, socially troubled, or other at-risk Indian youth who attend such schools.

(b) *LOCATION.*—The Secretary shall initiate the therapeutic model at two schools during school years 1994 through 1996, and shall give priority to—

(1) one school that is the recipient of a grant under section 5204 of the August F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 during the 1994–1995 school year; and

(2) one school operated by the Bureau of Indian Affairs during the 1995–1996 school year.

(c) *SERVICES.*—The demonstration schools shall provide an integrated residential environment that may include—

(1) mental health services;

(2) education;

(3) recreation therapy;

(4) social service programs;

(5) substance abuse education and prevention; and

(6) other support services for aftercare.

(d) *STAFFING.*—The demonstration schools shall be staffed with health and social service professionals, and educators, and may include—

(1) clinical psychologists;

(2) child psychologists;

(3) substance abuse counselors;

(4) social workers; and

(5) health educators.

(e) *ENROLLMENT.*—Notwithstanding any other provision of law, the Secretary of the Interior may limit the enrollment at the demonstration schools.

(f) *ASSISTANCE.*—The Secretary is authorized to enter into agreements with other organizations and agencies, including the Indian Health Service, to carry out this section.

(g) *REPORT.*—Not later than July 31 of each year, the Secretary of the Interior shall submit a report to the Committee on Indian Affairs of the Senate and the Committee on Education and Labor of the House of Representatives on the progress of the Department of the Interior in the development of the demonstration schools.

**SEC. 567. IMPACT AID WAIVER.**

In carrying out section 14(c) of the Act of September 23, 1950 (Public Law 815, 81st Congress) (20 U.S.C. 644(c)) the Secretary shall waive any amount of local effort in excess of \$200,000 that would otherwise be required under paragraphs (3) and (4) of such section and any regulations issued thereunder, in awarding funds to the Winona R-III School District, Missouri, with respect to its application #MO-86-C-3601A36.

**SEC. 568. APPLICATION OF THE ANTITRUST LAWS TO AWARD OF NEED-BASED EDUCATIONAL AID.**

(a) *TEMPORARY EXEMPTION.*—It shall not be unlawful under the antitrust laws for 2 or more institutions of higher education at which all students admitted are admitted on a need-blind basis, to agree or attempt to agree—

(1) to award such students financial aid only on the basis of demonstrated financial need for such aid;

(2) to use common principles of analysis for determining the need of such students for financial aid if the agreement to use such principles does not restrict financial aid officers at such institutions in their exercising independent professional judgment with respect to individual applicants for such financial aid;

(3) to use a common aid application form for need-based financial aid for such students if the agreement to use such form does not restrict such institutions in their requesting from such students, or in their using, data in addition to the data requested on such form; or

(4) to exchange through an independent third party, before awarding need-based financial aid

to any of such students who is commonly admitted to the institutions of higher education involved, data with respect to the student so admitted and the student's family relating to assets, income, expenses, the number of family members, and the number of the student's siblings in college, if each of such institutions is permitted to retrieve such data only once with respect to the student.

(b) **LIMITATIONS.**—Subsection (a) shall not apply with respect to—

(1) any financial aid or assistance authorized by the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.); or

(2) any contract, combination, or conspiracy with respect to the amount or terms of any prospective financial aid award to a specific individual.

(c) **DEFINITIONS.**—For purposes of this section—

(1) the term "alien" has the meaning given such term in section 101(3) of the Immigration and Nationality Act (8 U.S.C. 1101(3));

(2) the term "antitrust laws" has the meaning given such term in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent such section applies to unfair methods of competition;

(3) the term "institution of higher education" has the meaning given such term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a));

(4) the term "lawfully admitted for permanent residence" has the meaning given such term in section 101(20) of the Immigration and Nationality Act (8 U.S.C. 1101(20));

(5) the term "national of the United States" has the meaning given such term in section 101(22) of the Immigration and Nationality Act (8 U.S.C. 1101(22));

(6) the term "on a need-blind basis" means without regard to the financial circumstances of the student involved or the student's family; and

(7) the term "student" means, with respect to an institution of higher education, a national of the United States or an alien admitted for permanent residence who is admitted to attend an undergraduate program at such institution on a full-time basis.

(d) **EXPIRATION.**—Subsection (a) shall expire on September 30, 1997.

(e) **RELATED AMENDMENTS.**—The Higher Education Amendments of 1992 (Public Law 102-325) is amended—

(1) in the table of contents by striking the matter relating to section 1544, and part F of title XV, of such Act; and

(2) by striking part F of title XV of such Act.

**SEC. 569. DETERMINATION FOR FISCAL YEAR 1994.**

Notwithstanding the proviso referring to section 3(d)(2)(B) of Public Law 81-874 under the following heading "IMPACT AID" under title III of the Departments of Labor, Health and Human Services and Education, and Related Agencies Appropriations Act of 1994, or any provision of paragraph (2) of section 3(d) of such Public Law which is consistent with this proviso, determinations regarding the eligibility for an amount of payments under section 3(d)(2)(B) of such Public Law for fiscal year 1994 shall be made on the basis of 1994 data, and related Department regulations in effect during fiscal year 1992 shall be used in the tabulation of payments.

And the Senate agree to the same.

For consideration of the House bill and Senate amendment (except for sections 601-603 and 801-805):

WILLIAM D. FORD,  
GEORGE MILLER,  
DALE E. KILDEE,

PAT WILLIAMS,  
MAJOR R. OWENS,  
TOM SAWYER,  
DONALD M. PAYNE,  
JOLENE UNSOELD,  
PATSY T. MINK,  
JACK REED,  
TIM ROEMER,  
ELIOT L. ENGEL,  
XAVIER BECERRA,  
GENE GREEN,  
LYNN C. WOOLSEY,  
CARLOS ROMERO-BARCELÓ,  
KARAN ENGLISH,  
TED STRICKLAND,  
ROBERT A. UNDERWOOD,

From the Committee on Education and Labor for consideration of sections 601-603 of the Senate amendment:

WILLIAM D. FORD,  
MAJOR R. OWENS,  
DONALD M. PAYNE,

From the Committee on Ways and Means for consideration of sections 601-603 of the Senate amendment:

SAM GIBBONS,  
HAROLD FORD,

From the Committee on Education and Labor for consideration of sections 801-805 of the Senate amendment:

WILLIAM D. FORD,  
PAT WILLIAMS,  
TOM SAWYER,

From the Committee on Agriculture for consideration of sections 801-805 of the Senate amendment:

KIKA DE LA GARZA,  
CHARLIE STENHOLM,  
PAT ROBERTS,

*Managers on the Part of the House.*

EDWARD M. KENNEDY,  
CLAIBORNE PELL,  
HOWARD M. METZENBAUM,  
CHRISTOPHER J. DODD,  
PAUL SIMON,  
TOM HARKIN,  
BARBARA A. MIKULSKI,  
JEFF BINGAMAN,  
PAUL WELLSTONE,  
HARRIS WOFFORD,  
NANCY LONDON  
KASSEBAUM,  
JAMES M. JEFFORDS,  
ORRIN HATCH,  
DAVE DURENBERGER,

*Managers on the Part of the Senate.*

**JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE**

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6) to extend for five years the authorizations of appropriations for the programs under the Elementary and Secondary Education Act of 1965, and for certain other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

**STATEMENT OF MANAGERS**

The Managers on the part of the House and the Senate wish to recognize the extraordinary contributions of John (Jack) Jennings to the Congress and to the Federal programs in support of education. Jack Jennings is retiring at the end of this Congress having served for over a quarter century as counsel to the Education and Labor Committee and its Subcommittee on Elementary, Secondary, and Vocational Education. During his service, Jack Jennings has been a

model of staff professionalism, striving always to produce high quality education laws that faithfully reflect the policy decisions of the Members of Congress. The Members of Congress who have worked with Jack Jennings have benefited from his thoughtful counsel and diligence as have millions of students in America's schools.

**TITLE I, PART A**

*Short Title; Table of Contents*

1. The House bill contains a table of contents for the Improving America's Schools Act, which includes the Elementary and Secondary Education Act; the Senate amendment outlines the organization of the Improving America's Schools Act and includes a table of contents for the Elementary and Secondary Education Act.

The Senate recedes.

*Effective Dates; Transition*

2. The House bill refers to "Except as provided in subparagraph (B), the provisions of title I"; the Senate amendment entitles the paragraph "Title I" and refers to "The amendment made by title I".

Legislative counsel.

3. Both the House bill and the Senate amendment have an exception for the Impact Aid provisions, but the cites are different.

Legislative counsel.

4. The House bill refers to "programs that are conducted"; the Senate amendment refers to "programs under such Act that are conducted".

Legislative counsel.

5. The House bill refers to "in fiscal year 1995 and in subsequent"; the Senate amendment refers to "for fiscal year 1995 and for subsequent".

The Senate recedes.

6. The House bill, but not the Senate bill, requires that the Impact Aid provisions become effective on October 1, 1994.

The Senate recedes with an amendment changing the Title VIII effective date from October 1, 1994 to date of enactment of this Act.

7. The House bill refers to "The provisions of title II of this Act"; the Senate amendment entitles the paragraph "Title II" and refers to "Title I of this Act and the amendments made by title II of this Act".

Legislative counsel.

8. The House bill refers to "shall be effective upon enactment"; the Senate bill refers to "shall take effect on the date of enactment of this Act".

Legislative counsel.

9. Both the House bill and the Senate amendment refer to the equity provisions, but the cites are different.

Legislative counsel.

10. The House bill refers to "of this Act shall take effect"; the Senate amendment entitles the paragraph "Title III" and refers to "of this Act and the amendments made by such parts shall take effect on".

Legislative counsel.

11. The House bill refers to "of this Act"; the Senate amendment refers to "of this Act and the amendments made by such part".

Legislative counsel.

12. The House bill refers to "as in effect prior to amendment by this Act"; the Senate amendment refers to "as such Act was in effect on the day preceding the date of enactment of this Act".

Legislative counsel.

13. The House bill refers to "available to it"; the Senate amendment refers to "available to such recipient".

Legislative counsel.

**TITLE I—AMENDMENTS TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965**

14. The Senate amendment, but not the House bill, includes a U.S. code cite for the

Elementary and Secondary Education Act of 1965.

Legislative counsel.

TITLE I—IMPROVED EDUCATION FOR  
DISADVANTAGED CHILDREN

15. The House bill entitles Title I as "Improved Education for Disadvantaged Children"; the Senate amendment entitles Title I as "Helping Children in Need Meet High Standards".

The House recedes with an amendment changing the heading to read "HELPING DISADVANTAGED CHILDREN MEET HIGH STANDARDS".

*Declaration of Policy Statement and Purpose*

16. The Senate amendment, but not the House bill, includes a heading for the paragraph entitled "In General".

Legislative counsel.

17. The House bill refers to "for all persons"; the Senate amendment refers to "for all individuals".

Legislative counsel.

18. The House bill refers to "such education"; the Senate amendment refers to "that education".

Legislative counsel.

19. The House bill gives a detailed description of what constitutes "a societal good"; the Senate amendment refers to "a societal good".

The House recedes.

20. The House bill, but not the Senate amendment, states that a high quality education for all persons and a fair and equal opportunity to obtain such education are a private good.

The House recedes.

21. The House bill gives a detailed description of what constitutes "a moral imperative"; the Senate amendment refers to "a moral imperative".

The House recedes.

22. The House bill refers to "the life of every person"; the Senate bill refers to "the life of every individual".

Legislative counsel.

23. The Senate amendment, but not the House bill, contains an additional policy which states that the Congress declares it to be the policy of the United States to expand the Title I program by increasing the funding for it by at least \$750,000,000 over baseline in each fiscal year, thereby increasing the percentage of eligible children who receive services with the intent of serving all eligible children by fiscal year 2004.

The House recedes with an amendment changing 1995 to 1996.

24. The Senate amendment, but not the House bill, refers to "our Nation's" highest poverty schools.

Legislative counsel.

25. The Senate amendment, but not the House bill, includes children with disabilities among those for whom the educational needs are particularly great.

The House recedes.

26. The House bill, but not the Senate amendment, states that while title I and other ESEA programs have contributed to narrowing the achievement gap between children in high poverty schools and in low poverty schools, these programs need to become more effective in improving schools in order to enable all children to achieve high standards.

The Senate recedes.

27. The Senate amendment, but not the House bill, states that in order for all students to master challenging standards in core academic subjects as described in the National Education Goal 3, students and

schools will need to maximize the time spent on teaching and learning the core academic subjects, and students who receive pullout instruction at the expense of core academic subjects learning time can fall farther behind in learning the core academic subjects.

The House recedes with an amendment inserting a period after core academic subjects.

28. The House bill entitles the subsection as "What Has Been Learned"; the Senate amendment entitles the subsection as "What Has Been Learned Since 1988".

The House recedes.

29. The House bill refers to "builds upon what has been learned"; the Senate amendment refers to "builds upon the following learned information".

Legislative counsel.

Style Note: The House bill has the finding as one sentence; the Senate amendment has the finding as two sentences.

Legislative counsel.

30. The House bill refers to "and they are given"; the Senate amendment refers to "and all children are given".

Legislative counsel.

31. The House bill, but not the Senate amendment, states that conditions outside the classroom can adversely affect children's academic achievement and must be addressed through the coordination of services in order for the Nation to meet the National Education Goals, and then goes on to list those conditions.

The Senate recedes.

32. The House bill, but not the Senate amendment, states that a better understanding of the principles of good health can help children and adolescents succeed in school, become active, productive members of society, and successfully compete in the economy. The House bill further states that schools that provide quality physical and health education contribute to enhanced knowledge, behavior, and fitness of children and adolescents.

The House recedes.

33. The House bill refers to "the low level skills measured by such tests"; the Senate amendment refers to "low level skills measured by those tests".

Legislative counsel.

34. The House bill refers to "are more effective when they ensure that children"; the Senate amendment refers to "are effective when children".

Legislative counsel.

35. The House bill refers to "effective regular school programs"; the Senate amendment refers to "quality regular school programs".

The Senate recedes with an amendment inserting "high-quality" before "regular school".

36. The House bill, but not the Senate amendment, states that the disproven theory that children must first learn basic skills before engaging in more complex tasks continues to dominate strategies for classroom instruction, resulting in emphasis on repetitive drill and practice at the expense of content-rich instruction, accelerated curricula, and effective teaching to high standards.

The House recedes.

37. The House bill, but not the Senate amendment, states that insufficient attention and resources are directed toward the effective use of technology in schools and the role it can play in professional development and improved teaching and learning.

The Senate recedes.

38. The House bill refers to giving schools the "responsibility"; the Senate amendment refers to giving schools the "authority".

The House recedes.

39. The House bill refers to "bringing children to high levels of performance and schools accept the responsibility to do so"; the Senate amendment refers to "bringing their children to high levels of performance".

The House recedes.

40. The House bill refers to "public charter schools"; the Senate amendment refers to "charter schools".

The Senate recedes.

41. The House bill refers to "can be better targeted"; the Senate amendment refers to "have not been adequately targeted".

The Senate recedes.

42. The House bill refers to "local educational agencies"; the Senate amendment refers to "school districts".

The Senate recedes.

43. The Senate amendment, but not the House bill, states that piecemeal reform, particularly when not tied to an overall vision of teaching to, and helping all children reach, high standards, does not work.

The Senate recedes.

44. The Senate amendment, but not the House bill, states that equitable and sufficient resources, particularly as such resources relate to the quality of the teaching force, have an integral relationship to high student achievement.

The House recedes.

45. The House bill states that it is the purpose of this title to enable schools to provide opportunities for children to "acquire the knowledge and skills contained in the rigorous State content standards and to meet the challenging State performance standards developed for all children under the Goals 2000: Educate America Act or, in their absence, under this title"; the Senate amendment states that it is the purpose of this title to enable schools to provide opportunities for children to "acquire the same basic and advanced skills and knowledge as children not served under this title".

The Senate recedes with an amendment deleting "under the Goals 2000: Educate America Act or, in their absence, under this title."

46. The House bill refers to "high standards for all children"; the Senate amendment refers to "high standards".

The Senate recedes.

47. The Senate amendment, but not the House bill, states that an enriched and accelerated educational program can include, when appropriate, the use of the arts and humanities.

The House recedes with an amendment striking "and humanities".

48. The House bill, but not the Senate amendment, states that instruction through schoolwide programs or additional services should be provided so that children served under title I receive at least the classroom instruction that other children receive.

The Senate recedes.

49. The House bill refers to "ensuring access of children"; the Senate amendment refers to "access of children".

The Senate recedes.

50. The House bill refers to "content that includes intensive"; the Senate amendment refers to "content that support intensive".

The Senate recedes.

51. The House bill refers to "curricula and instruction"; the Senate amendment refers to "instruction".

The House recedes.

52. The House bill refers to "intensive and sustained professional development"; the Senate amendment refers to "ongoing professional development".

The Senate recedes.

53. The House bill refers to "schools where needs are greatest"; the Senate amendment refers to "areas where needs are greatest".

The Senate recedes with an amendment to add "areas and" before "schools".

54. The House bill refers to "how well children are achieving"; the Senate amendment refers to "how well children served under this title are achieving".

The House recedes.

55. The House bill refers to "high State standards of performance"; the Senate amendment refers to "high State student performance standards".

The House recedes.

56. The House bill refers to "schools and teachers"; the Senate amendment refers to "schools".

The Senate recedes.

57. The Senate amendment, but not the House bill, states that the purpose of the title shall be accomplished by encouraging the development of innovative models for recruitment, induction, retention, and assessment of new, highly qualified teachers, especially teachers from historically underrepresented groups.

The Senate recedes.

#### Authorization of Appropriations

58. The House bill, but not the Senate amendment, includes the phrase "Appropriations are authorized for the following programs and activities under this title".

Legislative counsel.

59. The House bill authorizes \$7,400,000,000 to be appropriated for FY 1995 to carry out Part A of this title except for School Improvement and Capital Expenses; the Senate amendment authorizes \$7,500,000,000 to be appropriated for FY 1995 to carry out Part A of this title except for Capital Expenses.

The Senate recedes.

Technical Note: Throughout the Authorization of Appropriations section, the House bill refers "part of this title" and to "of the fiscal years 1996, 1997, 1998, and 1999"; the Senate amendment refers to "part " and to "of the 4 succeeding fiscal years".

60. The House bill authorizes \$118,000,000 to be appropriated for FY 1995 for the Even Start program; the Senate amendment authorizes \$120,000,000 to be appropriated for FY 1995 for the Even Start program.

The Senate recedes.

61. The House bill entitles the paragraph as "Prevention and Intervention Services for Delinquent Youth and Youth At Risk of Dropping Out"; the Senate amendment entitles the paragraph as "Education for Neglected or Delinquent Youth".

The Senate recedes with an amendment changing the title to "Prevention and Intervention Programs for Youth Who Are Neglected, Delinquent, Or At Risk of Dropping Out".

62. The House bill authorizes \$41,434,000 to be appropriated for FY 1995 for Capital Expenses; the Senate amendment authorizes \$45,000,000 to be appropriated for FY 1995 for Capital Expenses.

The Senate recedes.

63. The House bill, but not the Senate amendment, authorizes \$30,000,000 to be appropriated for FY 1995 for School Improvement activities, and such sums as may be necessary for each of the fiscal years 1996, 1997, 1998, and 1999.

The Senate recedes with an amendment to insert "providing additional needed assistance to" after the words "of carrying", striking from "\$30,000" to the end of the sentence and replacing it with "such sums for FY 1996-1999." It is the conferees' intent that

states have the authority to reserve .5% of their state's Title I appropriation as provided for in the state administration section of this bill at the end of Title I. However, the conferees want to ensure that there are sufficient funds to carry out the program improvement requirements in this Act and are unsure whether .5% of a state's Title I funds will be adequate during the entire reauthorization period. Thus, if states determine that such reserve is insufficient, states may request additional funds from Congress through the appropriation process.

64. The Senate amendment, but not the House bill, entitles the paragraph as "Section 1601".

Legislative counsel.

65. The House bill authorizes \$9,000,000 to be appropriated for FY 1995 for Federal Evaluation activities; the Senate amendment authorizes \$10,000,000 to be appropriated for FY 1995 for Federal Evaluation activities.

The Senate recedes.

66. The Senate amendment, but not the House bill, entitles the paragraph as "Section 1602".

Legislative counsel.

67. The House bill authorizes \$20,000,000 to be appropriated for FY 1995 for Federal Demonstrations of Innovative Practices and for Innovative Elementary School Transition Projects; the Senate amendment authorizes \$20,000,000 to be appropriated for FY 1995 for Federal Demonstrations of Innovative Practices.

The Senate recedes with an amendment changing the amount authorized to be appropriated in fiscal year 1995 from \$20,000,000 to \$50,000,000.

#### State Plans

68. The House bill titles Part A "Basic Programs Operated by Local Educational Agencies"; the Senate amendment entitles Part A "Making High Poverty Schools Work".

The Senate recedes with an amendment inserting "Improving" before "Basic."

69. The Senate amendment, but not the House bill, has a paragraph heading "In General."

Legislative counsel.

70. The Senate amendment, but not the House bill, specifies that "pupil services personnel" and "other staff" be included on the list of groups to be consulted with in the development of the state plan.

The House recedes.

71. The Senate amendment, but not the House bill, requires the State plan to satisfy the requirements of this section.

The House recedes.

72. The House bill, but not the Senate amendment, provides that the state plan be integrated with, and satisfy requirements of this section not already addressed in, the State's Goals 2000 plan, and with other state plans, if any, under the School-to-Work Opportunities Act and the Perkins Act to the extent these plans have not already been incorporated into the state's Goals 2000 plan.

The Senate recedes with an amendment inserting before the period at the end of paragraph (1) "and that is coordinated with other programs under this Act, the Goals 2000: Educate America Act, and other Acts, as appropriate, as specified in section 14306."

73. The House bill, but not the Senate amendment, provides that, if a state does not have or is not developing, a Goals 2000 plan, the state plan be integrated with other state plans under this Act, and other plans including the School-to-Work Opportunities Act and the Perkins Act, where such plans exist, and satisfies the requirements of the section.

The House recedes.

74. Both the House bill and Senate amendment provide that the state plan may be submitted as part of a consolidated application with different cross references. The Senate amendment has a paragraph heading.

Legislative counsel.

75. The House bill, but not the Senate amendment, provides that a state may satisfy the requirements of this section by referencing applicable sections of its approved plan under Goals 2000.

The House recedes.

76. The Senate amendment, but not the House bill, has a paragraph heading.

Legislative counsel.

77. The House bill provides that the state plan shall "demonstrate" that the state has developed or adopted "high-quality standards" for "children served under this title" that will be used to carry out this Act; the Senate amendment provides that the state plan shall "describe" the high-quality "academic" standards for "all" children "in subjects determined by the state" that will be used to carry out this "part."

The Senate recedes with an amendment inserting "academic" after "high quality" to clarify that if states have content standards or student performance standards developed under Title III of the Goals 2000: Educate America Act, or some other process, those are the standards to be used in Title I program; and to clarify that "states shall not be required to submit such standards to the Secretary."

78. The House bill says that the standards be as challenging and of the same high quality as they are for all children; the Senate amendment says that for those subjects for which the state does not have standards and students are served under this part, describe a process for ensuring that such students are taught the same knowledge and skills and held to the same expectations as all children.

The Senate recedes with an amendment clarifying that states that have not adopted standards under Goals 2000, or another process must develop student content and student performance standards including at least mathematics and reading and language arts for children served in Title I programs which shall include the same knowledge, skills, and levels of performance expected of all children.

79. The House bill, but not the Senate amendment, provides that the standards in the state plan include challenging content standards in the core academic subjects and lists three characteristics of the content standards.

The Senate recedes with an amendment striking "in the core academic subjects" and inserting "academic" before "content standards" and striking "emphasizes" and inserting "encourages."

80. The House bill, but not the Senate amendment, says that the State plan include challenging performance standards aligned with the State's content standards.

The Senate recedes with an amendment to add "student" before "performance standards".

81. The House bill says that the performance standards describe two levels of high performance for determining how well children "served under this title" are mastering the material in the content standards; the amendment says state plans shall describe two levels of high performance that will determine how well children are mastering the material in the "State" content standards.

The Senate recedes with an amendment striking "served under this title" and inserting "State" before "content standards".

82. The House bill says that performance standards in the state plan include a "third benchmark below proficient, if necessary," to provide complete information about the progress of children toward achieving the "high" proficient and advanced performance standards; the Senate amendment says that the state plan describe a "third level, partially proficient" to provide complete information about the progress of children toward achieving the "proficient and advanced level of performance".

The House recedes.

83. The House bill provides for the development of model opportunity-to-learn standards for schools receiving assistance under this title and specifies three factors that the standards are to address; the Senate amendment provides that the state plan describe the steps the State will take to help each LEA and school affected by the State plan develop the capacity to comply with the requirements of sections 1112(c), 1114(b), 1115(c) that are applicable to such agency or school.

The House recedes with the following amendment:

\* \* \* \* \*

84. The Senate amendment, but not the House bill, says that if a state has content or performance standards developed under Title III of Goals 2000 or an aligned set of assessments for all students developed under such title or adopted under another process, the state shall use those standards or assessments, modified if necessary, to conform with the requirements of paragraphs (1)(A)(i), (2), and (3). House has the identical provision see note 108.

The House recedes.

85. The House bill provides for the State plan to include a schedule for the development of standards for core academic subjects where the state does not have such standards which includes the completion of standards in mathematics and reading/language arts by the end of the interim period described in paragraph (6); the Senate amendment provides that if a state does not have state content and state student performance standards for all students, the plan shall include a strategy for developing such standards for elementary and secondary students served under this part in subjects determined by the State, including at least mathematics, and reading or language arts which shall include the same knowledge, skills and levels of performance expected of all children.

The House and Senate recede with amendment to clarify that states are to have 1 year to develop standards in mathematics and reading and language arts, if they do not already have such standards.

86. The Senate amendment, but not the House bill, requires the plan to include, for those subjects in which a state will not develop standards for students served under this part, a strategy for developing a process for ensuring that such students are taught the same knowledge and skills and held to the same expectations as all children.

The House and Senate recede with amendment clarifying that for those academic subjects for which states are not required to develop standards, the plan shall include a strategy for ensuring that Title I students are held to the same expectations as all students.

87. The House bill provides that the state plan shall "demonstrate" what constitutes adequate yearly progress of any school served under this part toward enabling children to meet the State's "proficient and advanced" performance standards; the Senate amendment has a paragraph heading and

provides that the state plan contain a "description of" what constitutes adequate yearly progress of any school served under this part towards enabling "all" children to meet the State's "student performance standards."

The Senate recedes with an amendment inserting "student" before "performance standards".

88. The House bill says that the state plan shall demonstrate what constitutes adequate yearly progress of any local educational agency that receives funds under this part toward enabling "children in schools receiving assistance under this part" to meet the State's "proficient and advanced" performance standards; the Senate amendment requires a description of what constitutes adequate yearly progress for any local educational agency that receives funds under this part towards enabling "all children within its jurisdiction" to meet the State's "student performance standards."

The Senate recedes.

89. The House bill, but not the Senate amendment, provides that adequate yearly progress be defined in a manner that is consistent with criteria of general applicability established by the Secretary.

The Senate recedes with an amendment replacing "criteria of general applicability" with "guidelines."

90. The House bill provides that adequate yearly progress results in continuous improvement for economically disadvantaged, limited-English proficient, and all students under this title in each school and local educational agency toward the goal of all children under this title meeting the State's challenging "advanced" performance standards; the Senate amendment provides that adequate yearly progress result in continuous improvement of each local educational agency and school sufficient to achieve the goal of all children served under this part meeting the state's proficient and advanced level of performance, particularly eligible children described in section 1115(b).

The House recedes with an amendment striking "eligible children described in section 1115(b)" and inserting "economically disadvantaged and limited-English proficient children."

91. The House bill, but not the Senate amendment, provides that adequate yearly progress link progress primarily to performance on assessments but permits progress to include the use of other outcome-based measures such as reductions in drop-out rates.

The Senate recedes with an amendment to strike "outcome-based" and putting a period after "measures". It is the intent of the Managers that the term "other measures" may include indicators such as rates of attendance, graduation, school-to-work or school-to-college transition, and dropout rates.

92. The House bill provides that the state plan demonstrate that the State has developed or adopted a set of high-quality, yearly student assessments; the Senate amendment provides that the state plan include a description of such assessments including at least mathematics, and reading or language arts and has a paragraph heading.

The Senate recedes with an amendment inserting "including at least mathematics, and reading or language arts,"

93. The House bill provides that the assessments shall be the primary means of determining the yearly performance of each local educational agency and school "receiving assistance" under this part in enabling chil-

dren served under this title to meet the state's performance standards; the Senate amendment provides that the assessments be used in each local educational agency and school "served" under this part; enable "all" children served under this part to meet the State's "student" performance standards".

The House recedes.

94. The House bill provides that assessments be challenging and of the same high quality as they are for all children; the Senate amendment provides that the assessments be the same assessments used to measure the performance of all children, if the state measures the performance of all children.

The House recedes.

95. The House bill provides that assessments be aligned with the State's challenging content and performance standards and provide coherent information about student attainment of standards; the Senate amendment provides that assessments be aligned with State content standards where such standards have been developed and be capable of providing coherent information about student attainment relative to the State content standards (See Senate subparagraph (F) on next page).

The Senate recedes.

96. The House bill says that assessments be used for purposes for which they are valid and reliable and be consistent with nationally recognized standards; the Senate amendment has a similar provision but also says that assessment measures that are not valid and reliable or that do not meet nationally recognized standards for assessments may be used as one of the multiple measures WPC \* \* \*.

\* \* \* \* \*

97. Identical provisions, except the Senate amendment modifies "challenging standards" with the words, "State content" and "State student performance."

*Program Authorized*

98. Identical provisions, but the Senate amendment uses the heading, "in general."

*State Allocations*

99. Identical provisions, but the House bill uses the term, "entitled", when the Senate uses the term, "eligible."

100. Identical provisions, but the Senate amendment uses the heading, "in general."

101. Identical provisions, except the House bill allows the Secretary to reduce funds to a state if they "exceed the amount required", whereas the Senate allows it if "such amount is not needed."

102. Identical provisions, except the House bill applies the consortium requirement to States with grants of \$1m or less, whereas the Senate amendment applies it to States with grants of \$500,000 or less.

103. Similar provisions, with technical differences in the wording.

104. The House bill requires the Secretary to develop a more accurate method for determining the summer (which may include intersession) child count and reimbursement level; the Senate amendment requires the Secretary to adjust the overall child count by factoring in summer programs, intersession programs and programs that operate through stop-over centers.

105. The House bill, but not the Senate amendment requires the Secretary to consider alternatives for adjusting the formula for a child whose education has been interrupted.

*State Applications*

106. Identical provisions, except only the House bill extends the paragraph to require

that migratory status be recorded on State student collection data.

107. The Senate amendment, but not the House bill, includes "all" before migratory students.

108. The Senate amendment, but not the House bill, applies the terms "State content" and "State student" to "standards."

109. Identical provisions, except the Senate amendment adds the phrase, "and the amount of funds that such agencies will provide to individual schools."

110. The House bill, but not the Senate amendment, requires budgetary and other information.

111. Identical provisions, but the Senate amendment places it within "authorized activities", section 1406(b)(1)(C). (See page —)

112. Technical conforming differences. (The section numbers cited in both bills refer to the following provisions: schoolwides, targeted assistance, assignment of personnel, private school children, supplement not supplant, comparability of services, and General Provisions)

113. Identical, except the House bill uses the phrase, "lasting a school year", when the Senate amendment uses, the phrase "of one school year in duration."

114. The House bill, but not the Senate amendment, requires that the needs of preschool migratory children be met.

115. The Senate amendment requires that, "to the extent feasible", programs provide advocacy and outreach, professional development, family literacy, integration of technology, transition activities to postsecondary education or employment. (For comparable House bill provision, see note #26)

116. Technical conforming difference.

117. Identical provisions, except the Senate amendment adds the phrases, "State content standards" and "student performance standards."

118. The House bill, but not the Senate amendment, extends the "continuation of services" to a third category—secondary schools students to be served in credit accrual programs.

#### *Comprehensive Needs Assessment*

119. The House bill, but not the Senate amendment, requires that the plan be integrated with any plan submitted under Title III of Goals 2000 and with other plans under the School-to-Work Act and the Perkins Act.

120. The House bill, but not the Senate amendment, requires that the plan be integrated with other State plans, where such plans exist, if no plan is being developed under the Goals 2000.

121. Identical provisions, except the Senate amendment applies the phrases, "State content" and "challenging State student" to "standards."

122. Identical provisions, except the Senate amendment makes the requirement applicable to only "part A" of Title VII.

123. Similar provisions, except the provisions in the Senate amendment appear under the section describing use of funds (see note # 18) and paragraphs (C) and (D) of each bill are slightly modified.

124. The Senate amendment, but not the House bill, requires that the comprehensive plan, with modifications, remain in effect for the duration of the State's participation.

125. The House bill, but not the Senate amendment, allows the State to satisfy the requirements of the section through a reference to the applicable sections under a plan approved under Goals 2000.

126. Technical conforming difference.

127. The Senate amendment, but not the House bill, notes that nothing in this part

shall be construed to prohibit an LEA from serving migrant students with other students.

128. The House bill requires that the "authorized activities" (described in subsection 1306(b)) shall no longer apply if funds are used for a schoolwide program under section 1114; the Senate amendment requires that recipients continue to address the needs of children which result from the effects of a migratory lifestyle and which are not otherwise provided, notwithstanding the requirements of section 1114, ("schoolwide" programs).

#### *Coordination of Activities*

129. The House bill uses the phrase, "State and local educational agencies of their educational programs", while the Senate amendment uses the term "such agencies."

130. The House bill permits awards under this subsection only to nonprofit entities. The Senate amendment permits awards to for-profit, as well as nonprofit, entities.

131. The House bill, but not the Senate amendment authorizes grants for up to 5 years.

132. The House bill requires the Secretary to convene a panel to assess alternative methods by which student records may be transferred and students may be counted, to report to the Congress on the panel's findings and provides the Secretary the authority to contract for services. The Senate amendment provides the Secretary authority to extend MSRTS to January 1, 1996 and requires the Secretary to report to Congress on how student records are transferred.

133. Similar provisions, but the House bill requires the Secretary to reserve "up to \$6m", when the Senate bill requires that the Secretary reserve, "not more than \$6m."

134. The House bill requires, the Senate amendment allows, the Secretary to reserve \$1.5m for consortium grants.

135. The House bill, but not the Senate amendment, requires that a minimum of 10 grants be awarded to States with allocations of less than \$1m.

136. The House bill, but not the Senate amendment, authorizes the Secretary to award a grant of up to \$3m for a distance learning program.

#### *Definitions*

137. Technical differences. The House bill places the definitions in a separate section. The Senate amendment places the definitions in subsection (a) of section 1402, "Program authorized."

138. The House bill uses the term, "parent or spouse", when the Senate amendment uses, "parent or guardian"; and the House makes eligibility based on up to "24" months after a move, when the Senate amendment makes it based on "48" months.

139. The Senate amendment, but not the House bill, extends the definition of "migrant" to one who resides in a school district of a specified size and migrates a distance of at least 20 miles.

140. The House bill, but not the Senate amendment, makes "36", rather than "24" preceding months applicable in fiscal year 1995.

141. The Senate amendment, but not the House bill, defines the term, "stop-over center" which would be used in the determination of eligible children in a state.

142. The Senate amendment, but not the House bill, defines the term, "fishing activity." . . . education, mentoring, and apprenticeship programs involving business and industry" after "programs" in number (8)

143. The House bill provides that the Secretary establish a peer review process to as-

sist in the review of state plans; the Senate amendment has a paragraph heading and provides that the peer review process assist in the "review and recommendations for revision" of state plans.

The House recedes.

144. The House bill, but not the Senate amendment, provides that the peer review process include representatives of state educational agencies, local educational agencies, teachers, and parents.

The Senate recedes.

145. The House bill requires the Secretary to approve plans that meet the requirements of subsection (a) (b) and (c). The Senate amendment requires the Secretary to approve plans that meet the requirements of subsections (b) and (c).

The Senate recedes.

146. The House bill requires the Secretary to notify states whose plans do not meet the requirements of subsections (a), (b), or (c) of the determination and the reasons for it; the Senate amendment contains a similar provision but references only subsections (b) and (c).

The Senate recedes.

147. The House bill provides that the Secretary shall not decline to approve a plan before offering the state an opportunity to revise the plan or application, provide technical assistance to meet the requirements of subsections (a), (b), and (c), and a hearing; the Senate amendment provides that the Secretary shall not "finally disapprove" a plan before offering the State an opportunity for revision and technical assistance to meet the requirements of subsections (b) and (c).

The Senate recedes.

148. The Senate amendment, but not the House bill, provides that the Secretary may not require a state, as a condition of Secretarial approval, to include or delete from its plan one or more element of the state's content standards or to use specific assessment instruments or items.

The House recedes with an amendment inserting "Have the authority to disapprove a state plan for not meeting the requirements of this part, but shall" at the beginning of (E).

149. The House bill provides that the Secretary may withhold funds until determining that a plan meets the requirements of this section, but may not withhold funds on the basis of the State's opportunity-to-learn standards. The Senate amendment has a paragraph heading and provides that the Secretary may withhold state administrative and other funds until determining that the state plan meets the requirements of this section.

The House recedes.

150. The House bill says significant changes in the state plan such as the adoption of new "content and performance standards" be submitted to the Secretary for approval; the Senate amendment is similar but has paragraph headings and refers to "state content standards and state student performance standards".

The House recedes.

151. The House bill, but not the Senate amendment, says nothing in this Act shall be construed to authorize any federal official to mandate, or control a state, local educational agency, or school's specific instruction content, pupil performance standards and assessments, curriculum or program of instruction in order to be eligible to receive funds.

The Senate recedes with an amendment to strike "how", move to the list of assurances, and to insert "opportunity to learn standards or strategies" after "assessments".

152. The House bill, but not the Senate amendment, says notwithstanding any other provision of this Act the implementation of model opportunity-to-learn standards shall be voluntary.

The Senate recedes with the following amendment:

"Nothing in this Act shall be construed to require any State or local educational agency or school to implement opportunity to learn standards or strategies developed by such State under Public Law 103-227."

153. The House bill, but not the Senate amendment, says nothing in this title shall be construed to authorize any federal official to mandate or control a state, local educational agency, or school's opportunity-to-learn standards as a condition of eligibility to receive funds under this title.

The House recedes.

154. The House bill, but not the Senate amendment, says nothing in this section shall be construed to create a legally enforceable right based on opportunity-to-learn standards.

The House recedes.

155. The House bill, but not the Senate amendment, says nothing in this section shall be construed to mandate equalized spending.

The House recedes.

156. The House bill, but not the Senate amendment, requires that nothing in this section shall be construed to mandate national school building standards.

The House recedes.

157. Both the House bill and Senate amendment say that if they do not already do so, aggregate state expenditures for the operation of elementary and secondary programs must equal or exceed the level of federal expenditures for the operation of such programs by a time certain with technical differences in the Senate amendment including entitling the subsection "Special Rule", referring to "elementary and secondary education programs in the State" and "October 1, 1998".

Legislative counsel.

#### Local Educational Agency Plans.

158. Both the House bill and Senate amendment provides that local educational agencies must have a plan on file with, and approved by, the State educational agency which may be submitted as part of a consolidated application with a minor technical difference.

Legislative counsel.

159. The House bill, but not the Senate amendment, says that the plan be integrated with the local educational agency's Goals 2000 plan.

The Senate recedes with an amendment striking (A) and (B) and inserting "is coordinated with other programs under this Act, the Goals 2000: Educate America Act, and other Acts, as appropriate, as specified in section 14306.

160. The House bill, but not the Senate amendment, says that the plan be integrated with local plans, if any, under the School-to-Work Opportunities Act and the Perkins Act, to the extent they are not already incorporated into the state's Goals 2000 plan.

The House recedes.

161. The House bill, but not the Senate amendment, says if the local educational agency does not have a Goals 2000 plan, the plan be integrated with other plans under this Act, School-to-Work and Perkins where such plans exist, and satisfies the requirements of this section.

The House recedes.

162. Both the House bill and Senate amendment allow the plan to be submitted as part

of a consolidated application with minor technical differences and different reference cites.

Legislative counsel.

163. The House bill, but not the Senate amendment, provides that a local educational agency may satisfy the requirements of this section by referencing applicable parts of their Goals 2000 plan.

The House recedes.

164. The House bill entitles subsection (b) "Standards and Assessment Provisions; the Senate amendment entitles this subsection "Plan Provisions" and has a paragraph heading.

Legislative counsel.

165. The House bill, but not the Senate amendment, provides that the plan include a description of any content and performance standards in the core subjects, in addition to those adopted by the State under section 1111, that the local educational agency expects children served under this title to meet.

The House recedes.

166. The House bill, but not the Senate amendment, provides that the plan include a description of what constitutes adequate yearly progress if a local educational agency elects to establish more stringent measures than those in the State plan.

The House recedes.

167. The House bill says that the plan include a description of additional high quality student assessments, if any, other than those in the state plan, that the local educational agency will use to determine the success of children served under this title in meeting state performance standards; the Senate amendment contains a similar provision stating that the assessments be used to "provide information to teachers, parents, and students on the progress being made toward meeting state performance standards.

The Senate recedes with an amendment inserting before the semicolon at the end of (A) "and provide information to teachers, parents, and students on the progress being made toward meeting the State student performance standards described in section 1111 (b)(2)(A)".

168. The House bill provides that additional assessments assist in diagnosis, teaching and learning in the classroom in ways that best enable children served under this title to meet state standards and do well in the local curriculum and be used to determine what revisions are needed to projects under this part so that such children will meet the state's performance standards; the Senate amendment provides that such assessments "aid in instruction, in improving the performance of individual students, and in revising the local educational agencies or school's instructional program to enable all children served under this part to meet state performance standards."

The Senate recedes.

169. The Senate amendment, but not the House bill, provides that additional assessments be selected and administered by teachers.

The Senate recedes.

170. The Senate amendment, but not the House bill, provides that assessments be aligned with curriculum, and constitute an integral part of the instructional program.

The Senate recedes.

171. The Senate amendment, but not the House bill, provides that the plan include, at that local educational agency's discretion, other indicators that will be used in addition to assessments for the uses described in clause (i) and lists examples of such indicators.

The House recedes with an amendment deleting the illustrative examples of "other indicators". It is the intent of the Managers that the term "other measures" may include indicators such as rates of attendance, graduation, school-to-work or school-to-college transition, and dropout rates.

172. The House bill has a subsection heading and provides that, to ensure high-quality instruction to enable participating children to meet the state's performance standards a coherent strategy for intensive and sustained professional development for teachers, administrators, and other staff including staff of such agency, in accordance with section 1119; the Senate amendment requires a description of the strategy the local educational agency will use to provide ongoing professional development for the same groups plus pupil services personnel, and parents.

The House recedes with amendments inserting "where appropriate" before "pupil services personnel", and a cross-reference to section 1119.

173. The Senate amendment provides that the professional development take into account needs and activities across and within schools, and draws on resources from multiple resources. The House bill has a similar provision under its Professional Development section.

The Senate recedes.

174. The House bill provides that the plan describe how local educational agencies will notify schools of the authority to operate schoolwide programs; the Senate amendment has a subsection heading and requires an assurance that the local educational agency will inform eligible schools and parents of schoolwide project authority and provide technical assistance to schoolwide programs.

The House recedes.

175. The House bill provides that the plan describe how local educational agencies will work with schools as they develop their plans, and assist schools in implementing their schoolwide and targeted assistance plans so that each school can make adequate yearly progress toward meeting State standards, and fulfill its school improvement responsibilities including the corrective actions it will take under section 1116. The Senate amendment requires an assurance that the local educational agency will work with schools in the development and implementation of their schoolwide and program improvement plans so that each school can make progress toward meeting "state content standards and state student performance standards;" and fulfill its school improvement responsibilities with a different section reference.

The Senate recedes with an amendment inserting "State content standards and State student performance standards" and moving (c) to the assurance list.

176. The House bill provides that the plan describe how the local educational agency will coordinate and integrate services provided under this part with other educational services including Even Start, Head Start, other preschool programs including plans for the transition of participants in such programs to other programs, vocational education and school-to-work transition programs; the Senate amendment contains similar language requiring assurances for the coordination and integration of services under this part with a similar list of programs but does not include transition or vocational education programs.

The Senate recedes with an amendment to strike "including plans" and inserting "such as plan".

177. The House bill provides that the plan describe how the local educational will coordinate services with services for children with limited English proficiency or disabilities, migratory children including those previously eligible for services under Part C, in the 2 year period prior to the enactment of this title, delinquent youth and youth at risk of dropping out, homeless children, and immigrant children, to increase program effectiveness, eliminate duplication, and reduce fragmentation of children's instructional programs; the Senate amendment requires an assurance for coordination with such programs but does not include services for children formerly eligible for migrant education and refers to "neglected or delinquent children."

The Senate recedes with an amendment adding "neglected and" before "children".

178. The House bill provides that the plan describe how the local educational agency will coordinate and collaborate with other agencies providing services to children, youth and families, including health and social services; the Senate amendment says that the local educational agency provide assurances that it will coordinate and collaborate to the extent feasible with such agencies and with school-based pupil services personnel where appropriate.

The House recedes with an amendment deleting "school-based pupil services personnel, where appropriate".

179. Both the House bill and Senate amendment say the plan shall include a description of the poverty criteria that will be used to select school attendance areas with technical differences.

Legislative counsel.

180. The House bill refers to the multiple criteria that will be used by targeted assistance schools to identify children eligible for services under this part; the Senate amendment refers to how teachers, in consultation with others, in targeted assistance schools, will identify those children most in need of services under this part.

The House recedes.

181. The House bill refers to the nature of programs to be conducted by schools under section 1114 and 1115 and services for children living in institutions for neglected and delinquent children; the Senate amendment refers to a "general description of" the nature of these programs "and where appropriate educational" services for children in institutions for neglected and delinquent children, and "for neglected and delinquent children in community day school programs".

The House recedes.

182. The House bill, but not the Senate amendment, provides that the plan describe how the local educational agency will ensure that migratory and formerly migratory children are selected to receive such services on the same basis as other children who are selected to receive services under this part.

The Senate recedes.

183. The House bill refers to how a school that plans to serve children through Head Start or Even Start will use funds to expand such programs or increase the level of service to children presently being served; the Senate amendment provides that the plan include a description of how the local educational agency, where appropriate, will use funds to support preschool programs for children, particularly children participating in Head Start or Even Start, and that such services may be provided directly by such agency or through a subcontract with the local Head Start agency designated by the Secretary of Health and Human Services, or

another comparable public early childhood development program.

The House recedes with an amendment adding "agencies operating an Even Start program" after "Head Start Act".

184. The House bill says the plan shall include a description of how the local educational agency will provide services to eligible children attending private elementary and secondary schools; the Senate amendment says that the local education agency provide an assurance that it will serve such children and has a different cross reference and other technical differences.

The House recedes.

185. The House bill, but not the Senate amendment, provides that the local educational agency describe the number of schoolwide programs that will be operating in such agency.

The House recedes.

186. The Senate amendment, but not the House bill, says that the plan provide assurances that the local educational agency will give priority to serving students in the earlier grades of schools that receive funds under this part.

The House recedes with an amendment revising the provision to read "take into account the experience of model programs for the disadvantaged, the findings of relevant research, that services may be most effective if focused on pupils in the earliest grades of school that receive funds under this part".

187. The Senate amendment, but not the House bill, provides that local educational agency provides assurances that, where appropriate and feasible, it will establish a procedure to ensure that all children in participating elementary schools receive two health screenings during their elementary school years.

The Senate recedes.

188. The Senate amendment, but not the House bill, says that the plan provide assurances that in the case that a state uses funds to provide early childhood services to low-income children below the age of compulsory school attendance, ensure that those services comply with the Head Start performance standards.

The Senate recedes.

189. The Senate amendment, but not the House bill, provides that the local educational agency describe how, where appropriate and feasible, it will use funds to reduce class size to 15 students.

The Senate recedes.

190. The Senate amendment, but not the House bill, provides that local educational agency plans be filed according to a schedule established by the State educational agency and that such plan shall be approved within 2 years of the date of enactment of the IASA.

The House recedes with amendments inserting "not more than 1 year from the date of enactment of the Improving America's Schools Act to have such plan provisionally approved by the State educational agency and" before "not" and "finally" before "approved".

191. The House bill provides that local educational agency plans be developed in consultation with teachers, including vocational teachers where appropriate; the Senate amendment provides that the plan be developed in consultation with teachers, pupil services personnel and has other minor technical differences.

The Senate recedes with an amendment inserting "pupil services personnel" after "teachers".

192. The House bill provides that the state educational agency shall approve a local

plan if the plan will enable schools served under this part to help children served under this title to meet the State's challenging performance standards expected of all children; the Senate amendment contains a similar provision except it refers to helping "all" children served "under this part" to meet the standards "described in section 1111(b)(1)" and has other technical differences.

The House recedes with an amendment inserting "expected of all children" before "described".

193. The House bill, but not the Senate amendment, provides that the state educational agency shall review the local plan to determine if the professional development activities are in accordance with section 1119.

The Senate recedes.

194. The House bill refers to the shared responsibility of schools, teachers, and the local educational agency in making decisions under section 1114 and 1115; the Senate amendment refers to the shared responsibilities of the local educational agency and schools.

The Senate recedes.

#### *Eligible School Attendance Areas*

195. The Senate amendment, but not the House bill, includes a paragraph heading entitled "In General".

Legislative counsel.

196. The House bill requires that LEAs use funds received under this part "only in school attendance areas with high concentrations of children from low-income families, hereafter in this section referred to as eligible school attendance areas"; the Senate amendment requires that LEAs use funds under this part "only in eligible school attendance areas".

The Senate recedes.

197. The Senate amendment, but not the House bill, includes a paragraph heading entitled "Eligible School Attendance Areas".

Legislative counsel.

198. The House bill refers to "school attendance area"; the Senate amendment refers to "the term 'school attendance area'".

Legislative counsel.

199. The House bill refers to "served by such school reside"; the Senate amendment refers to "served by that school reside".

Legislative counsel.

200. The House bill refers to "eligible school attendance area"; the Senate amendment refers to "the term 'eligible school attendance area'".

Legislative counsel.

201. The House bill defines eligible school attendance area to mean a school attendance area in which the percentage of children from low income families is at least as high as the percentage of children from low income families in the LEA as a whole; the Senate amendment, in defining eligible school attendance area, encompasses the House bill's definition and further defines the term to mean a school attendance area in which the percentage of children from low income families is equal to or greater than the percentage of children served by the LEA as a whole or who are eligible to participate in a schoolwide program.

The Senate recedes.

202. The Senate amendment, but not the House bill, includes a paragraph heading entitled "Serving Schools in Rank Order".

Legislative counsel.

203. The House bill requires, that if funds allocated in accordance with the allocations subsection are insufficient to serve all eligible school attendance areas, then a LEA

most annually rank, from highest to lowest according to the percentage of children from low-income families, and without regard to grade spans, its eligible school attendance areas in which the concentration of children from low-income families exceeds 75%, and then the LEA must serve such eligible school attendance areas in rank order; the Senate amendment requires that each LEA receiving part A assistance first serve in rank order schools in which the concentrations of children from low-income families is 75% or greater.

The Senate recedes.

204. The House bill requires that, if funds remain after serving all eligible school attendance areas within which the concentration of children from low-income families exceed 75%, then the LEA must annually rank its remaining eligible school attendance areas from highest to lowest either by grade span or for the entire LEA according to the percentage of children from low-income families, and then serve such eligible school attendance areas in rank order either by grade span or within the LEA as a whole; the Senate amendment requires that, after the LEA first serves, in rank order, the eligible school attendance areas in which the concentrations of children from low-income families is 75% or greater, the LEA then serve, in rank order, schools in which the concentration of children from low-income families is at least 50% and less than 75%, with rank order determined, at the discretion of the LEA, according to grade span or school, and finally serve in rank order schools in which the concentration of children from low-income families is below 50%, with rank order determined according to grade span or by school.

Open.

205. The House bill requires that the LEA shall use as the measure of poverty, with respect to all school attendance areas in the LEA, either (1) the number of children ages 5 to 17 in the poverty count of the most recent census data approved by the Secretary, (2) the number of children eligible for free and reduced price lunches under the National School Lunch Act, (3) the number of children in families receiving assistance under AFDC, or (4) the number of children eligible to receive medical assistance under the Medicaid program, or (5) a composite of the above poverty indicators; the Senate amendment requires that the LEA shall use the same measure of low-income, with respect to all school attendance areas in the LEA, which the LEA shall choose on the basis of the best available verifiable data and which may be a composite of several indicators.

The Senate recedes with an amendment inserting "the same measure of low income, which measures shall be" before "the number".

206. The House bill refers to "each area"; the Senate amendment refers to "each such area".

Legislative counsel.

207. The House bill does not apply the ranking and poverty indicator provisions to LEAs with a total enrollment of less than 1,000 students; the Senate amendment does not apply the ranking and poverty indicator provisions nor the allocation requirements to LEAs with a total enrollment of less than 1,000 students but requires that such LEAs serve school attendance areas or schools in rank order according to grade span or school on the basis of the total number of children from low-income families in the grade levels served.

The Senate recedes but the conferees note that the House exemption affects 45% of all

school districts. The conferees are concerned that this exemption could result in some rural states, made up almost entirely of school districts with enrollments of less than 1,000 children, not achieving the level of targeting that the conferees intend. However, the conferees also recognize that the Senate language might be difficult to administer or be too inflexible for some small districts to serve the neediest students. Thus, it is the conferees' intent that the Secretary should work with and encourage such districts that receive Title I, Part A funds to target their funds to the neediest schools and students in ways appropriate for smaller districts.

208. The Senate amendment, but not the House bill, does not apply the ranking and poverty indicator provisions nor the allocation requirements to a school participating in a desegregation program where the number of economically disadvantaged children served by the school is equal to or greater than 100 or equal to or greater than 25% of the school's total enrollment.

The House recedes with an amendment giving the Secretary of Education the authority to grant a waiver.

While the House recedes with an amendment giving the Secretary the authority to grant a waiver from the requirement to serve schools in rank order for local educational agencies undergoing desegregation plans, the conferees take particular note of the unique situation of the Omaha, Nebraska School District and the particular need for a waiver under the authority given the Secretary in this legislation. While the waiver authority is permissive, the conferees, in light of the unique circumstances brought to their attention, intend that the Secretary of Education shall grant such a waiver to the Omaha School District.

209. The Senate amendment, but not the House bill, includes a special rule which states that the per pupil amount of funds allocated to each school or school attendance area which falls under the Senate exceptions, above, shall be at least 65% of the per pupil amount of funds the LEA received for that year under the poverty criterion described in the LEA plan, except that this shall not apply to a LEA that only serves schools in which at least 50% of children enrolled are from low income families, but allows a LEA to reduce the amount of any supplemental State and local funds expended in the attendance area or school for programs that meet the schoolwide program or targeted assistance school requirements of this part.

The Senate recedes.

210. The House bill, but not the Senate amendment, allows LEAs to designate as eligible any school attendance area or school in which at least 50% of the children are from low-income families.

The Senate recedes.

211. The House bill, but not the Senate amendment, allows LEAs to elect not to serve an eligible attendance area or school that has a higher percentage of children from low-income families if (1) the school meets the comparability requirements of this title, (2) the school is receiving supplemental funds from other State or local sources that are spent according to the schoolwide program or targeted assistance program requirements, (3) the funds expended from State or local sources equal or exceed the amount that would be provided under this part, but, notwithstanding the above, the number of children attending private schools who are to receive services and the assistance they receive under this part

shall be determined without regard to whether the public school attendance area in which the private school children reside is passed over under Title I services.

The Senate recedes.

212. The House bill, but not the Senate amendment, allows LEAs to use funds received to serve eligible children who reside in school attendance areas served under part A and who attend schools in other attendance areas in accordance with a court-ordered desegregation plan or a plan which continues to be implemented in accordance with a district-wide, court-ordered desegregation plan.

The House recedes.

213. The Senate amendment, but not the House bill, includes a subsection heading entitled "Optional Assignment".

The Senate recedes.

214. The House bill refers to "in local educational agencies that have over 900,000 students, to the extent feasible, use"; the Senate amendment refers to "A local educational agency with a total enrollment of greater than 900,000 children may, to the extent feasible".

Both the House and Senate recede.

215. The House bill refers to "serve educationally deprived children"; the Senate amendment refers to "serve children from low income families".

Both the House and Senate recede.

216. The Senate amendment, but not the House bill, includes a subsection heading entitled "In General".

Legislative counsel.

217. The House bill requires that LEAs allocate part A funds to eligible school attendance areas or to eligible schools which are identified under the Allocations and LEA Discretion provisions, in rank order, on the basis of the total number of children from low-income families in each area or school; the Senate amendment requires that LEAs allocate part A funds to eligible school attendance areas or to eligible schools which are (1) identified as having a concentration of children from low-income families of 75% or greater, in rank order, on the basis of the total number of children from low-income families in each area or school, (2) identified as having a concentration of children from low-income families of less than 75%, in rank order, on the basis of the total number of children from low-income families served in grade levels served in each eligible attendance area or eligible school.

The Senate recedes.

218. The Senate amendment, but not the House bill, includes a paragraph heading entitled "Special Rule".

Legislative counsel.

219. The House bill requires that the per-pupil amount of funds allocated to each school attendance area or school shall be not less than 80% of the per-pupil amount of funds the LEA received under basic grants, concentration grants, and targeted grants to LEAs; the Senate amendment requires that the per-pupil amount of funds allocated to each school attendance area or school shall be at least 65% of the per-pupil amount of funds an LEA received for that year under the poverty criterion that the LEA described in its plan, except this requirement shall not apply to an LEA which only serves schools in which the percentage of low-income children is 50% or greater.

See note 504.

220. The House bill refers to "such school attendance area or school"; the Senate amendment refers to "that school attendance area or school".

Legislative counsel.

221. The Senate amendment, but not the House bill, includes a paragraph heading entitled "Reservation".

Legislative counsel.

222. The House bill refers to "provide the services"; the Senate amendment refers to "those provided".

Legislative counsel.

223. The House bill requires LEAs to reserve funds in order to serve homeless children consistent with section 1115(b)(2)(d) which are provisions regarding homeless children; the Senate amendment requires LEAs to reserve funds to serve eligible homeless children who do not attend participating schools, including, where appropriate, providing educationally related support services to children in shelters.

The House recedes with an amendment moving "where appropriate" to the beginning of (A).

224. The House bill refers to "children in local institutions for delinquent children"; the Senate amendment refers to "children living in local institutions for neglected and delinquent children".

The House recedes.

225. The Senate amendment, but not the House bill, requires LEAs to reserve funds to serve, where appropriate, neglected and delinquent children in community day school programs.

The House recedes.

#### Schoolwide Programs

226. The Senate amendment, but not the House bill, includes a paragraph heading entitled "In General".

Legislative counsel.

227. The House bill refers to "to upgrade"; the Senate amendment refers to "in order to upgrade".

Legislative counsel.

228. The House bill refers to "in an eligible school"; the Senate amendment refers to "a school described in subparagraph (A) or (B)".

Legislative counsel.

229. The House bill refers to "meet the following criteria"; the Senate amendment refers to "meets either of the following criteria".

Legislative counsel.

230. The House bill allows schools to operate schoolwide programs if, for school year 1995-96 the school serves an eligible school attendance area where at least 65% of the children are from low income families or where at least 65% of the children enrolled in the school are from low income families, and, for school year 1996-97 and thereafter, the qualifying percentage shall be 60%; the Senate amendment allows schools to operate schoolwide programs if the school serves an eligible school attendance area where at least 30% of the children are from low income families and are eligible for a free or reduced price lunch or show evidence of poverty by other criteria, and where at least 30% of the children enrolled are from families meeting the above criteria.

The Senate recedes with an amendment making schoolwide eligibility 60 percent for the school year 1995-96 and 50 percent for school year 1996-97 and thereafter.

231. The House bill, but not the Senate amendment, requires that an LEA can only start new schoolwide programs after the SEA provides written information to the LEA that demonstrates that the State has established the statewide system of support and improvement that is required by this title and if the State describes how it has the capability to provide on-site assistance (if necessary) to each eligible school.

The Senate recedes with an amendment re-drafting (B) to read "a school that wants to initiate a schoolwide program prior to the establishment of the statewide system of support and improvement required in section 1117(c)(1) and (e), shall demonstrate to the local educational agency that it has received high quality technical assistance and support from other providers of assistance such as comprehensive technical assistance centers, regional laboratories, institutions of higher education, educational service agencies or other local consortia". Also delete "(2) the provisions of paragraph (1) notwithstanding."

232. The Senate amendment, but not the House bill, states that no schoolwide program school shall be required to identify particular children as eligible to participate in a schoolwide program or to provide supplemental services to such children.

The House recedes with an amendment inserting "under this part" after "such children."

233. The House bill refers to "A schoolwide program school shall use such funds"; the Senate amendment refers to "A school participating in a schoolwide program shall use funds available to carry out this section".

Legislative counsel.

234. The Senate amendment, but not the House bill, includes a paragraph heading entitled "Special Rule".

Legislative counsel.

235. The House bill allows schoolwide program schools to use funds received from any USED formula grant program (except IDEA) and from any discretionary program (which is contained on a list issued by the Secretary) to support a schoolwide program; the Senate amendment allows, except as provided in the Components of Schoolwide provisions, the Secretary to publish a Federal Register notice which exempts schoolwide programs from statutory or regulatory provisions of any USED formula or discretionary grant program (except IDEA formula or discretionary programs) to support schoolwide programs.

The House recedes.

236. The Senate amendment, but not the House bill, states that the Federal Register notice shall not be subject to the requirements in section 431 of GEPA or section 553 of title 5 of the U.S. Code.

The Senate recedes.

237. The Senate amendment, but not the House bill, states that a school which chooses to use other program funds in the schoolwide program shall not be relieved of the requirements relating to health, safety, civil rights, gender equity, student and parental participation and involvement, services to private school children, maintenance of effort, comparability of services, uses of Federal funds to supplement, not supplant non-Federal funds, or the distribution of funds to States or local educational agencies that apply to the receipt of funds from such programs.

The House recedes.

238. The Senate amendment requires that schoolwide program schools use not less than 10% of their Title I funds to carry out professional development activities except that a school may enter into consortia, and the 10% set-aside requirement shall not apply to a school if 10% of the funds the school receives is equal to less than \$5,000; the House bill requires that schoolwide program provide intensive and sustained professional development for teachers, principal, and other staff, including aides, in accordance with the provisions in section 1119 (Professional Develop-

ment) of the House bill (see notes 235 and 443).

The House recedes with an amendment re-writing the language to read as follows:

"Each school receiving funds under this part for any fiscal year shall devote sufficient resources to effectively carry out the professional development activities described in subsection (b)(1)(D), and, consistent with section 1119, for such fiscal year, except that a school may enter into a consortium with another school to carry out such activities."

Amend the program improvement provisions in section 116 to include the following:

\* \* \* \* \*

Include in section 1119 the following:

"No State Educational Agency shall require a school to expend for professional development activities a specific amount of funds except that this part shall not apply with respect to section 1116(d)(6)."

239. The Senate amendment, but not the House bill, includes a paragraph heading entitled "In General".

Legislative counsel.

240. The House bill refers to "State's standards"; the Senate amendment refers to "State content standards and the State student performance standards described in section 1111(b)(1)".

The House recedes.

241. The House bill refers to "performance standards"; the Senate amendment refers to "levels of performance described in section 1111(b)(1)(A)".

The House recedes with an amendment inserting "student" before "performance".

242. The House bill refers to "based on research on effective means"; the Senate amendment refers to "based on effective means".

The House recedes.

243. The House bill, but not the Senate amendment, requires that schoolwide program uses effective instructional strategies which may include the integration of vocational and academic learning (including applied learning and team teaching strategies).

The Senate recedes.

244. The House bill gives, as an illustrative example of increasing time and learning, providing an extended school year and before-and-after school programs and opportunities; the Senate amendment allows, in addressing the needs of all children, schoolwide programs to offer after school and summer programs, and places these provisions in another part of the section.

The Senate recedes with an amendment inserting "and summer" before "programs".

245. Both the House bill and the Senate amendment require that schoolwide programs help provide an enriched and accelerated curriculum, but the House bill also requires that the curriculum should incorporate gender-equitable methods and practices, but the House bill states that such curriculum should be provided instead of remedial drill and practice, and the Senate amendment places the gender equity language in another part of the section.

The Senate recedes with an amendment adding "and that include strategies in meeting the educational needs of historically underserved populations, including girls and women".

246. The Senate amendment, but not the House bill, refers to "economically disadvantaged children" and "children with disabilities".

The House recedes with an amendment striking categories of children.

247. Both the House bill and the Senate amendment require that schoolwide programs address how the school will determine

if the needs of special populations have been met, but the bills place the requirement in different parts of the section (see page ).

Legislative counsel.

248. The House bill, but not the Senate amendment, requires that schoolwide programs describe the current program being offered to LEP students.

The House recedes.

249. The House bill, but not the Senate amendment, requires that schoolwide programs address how the school will build upon, expand, or coordinate the schoolwide program with the current program.

The House recedes.

250. The Senate amendment states that, in addressing the needs of all children, schoolwide programs may include counseling, pupil services and mentoring services, college and career counseling awareness and preparation, services to prepare students for the transition from school-to-work; the House bill includes similar activities, but specifies that such activities must be carried out in schools serving children beyond grade six.

The House recedes with amendments adding references to comprehensive career development, occupational information, and occupational skills, personal finance education and other matters from the House bill.

251. The Senate amendment states that, in addressing the needs of all children, schoolwide programs may include services to assist preschool children in transition from early childhood programs to elementary school programs; the House bill requires that schoolwide programs carry out similar activities.

The Senate recedes.

252. The House bill refers to "State and local reform plans"; the Senate amendment refers to "State and local improvement plans".

The House recedes.

253. The House bill requires that schoolwide programs provide intensive and sustained professional development for teachers, principals, and other staff, including aides; the Senate amendment requires that schoolwide programs provide ongoing professional development for teachers, pupil services personnel, parents, principals, and other staff.

The House recedes with an amendment adding a reference to section 1119 and inserting "and aides, where appropriate" and striking "ongoing".

254. The House bill requires that professional development be provided in accordance with the provisions in section 1119 (Professional Development) of the House bill; and Senate amendment requires that professional development be provided in accordance with the 10% set-aside provision.

The Senate recedes.

255. The House bill refers to "State's performance standards"; the Senate amendment refers to "State's student performance standards."

The House recedes.

256. The Senate amendment requires that professional development activities be jointly developed by the principal, teachers, and other staff of each school; the House bill has similar requirements in section 1119.

The Senate recedes.

257. The House bill refers to "strategies to increase parental involvement, including family literacy services"; the Senate amendment refers to "parental involvement in accordance with section 1116".

The Senate recedes with an amendment changing "including" to "such as".

258. The House bill requires that schoolwide programs include plans for assisting preschool children in the transition from early childhood programs, such as Head Start, Even Start, or a State-run preschool program, to elementary school; the Senate amendment includes a similar provision, but it is an allowable activity, and it does not reference specific programs.

The Senate recedes.

259. The House bill requires schoolwide programs serving children beyond grade six to provide counseling and mentoring services, college and career awareness, exploration, and preparation programs, and services to prepare students for the transition from school to work; the Senate amendment has similar provisions, but they are allowable activities and are not limited to schools serving children beyond grade six.

The House recedes with an amendment moving certain provisions to schoolwide project components.

260. The Senate amendment, but not the House bill, requires schoolwide programs to include the development and use of teacher selected assessments as described in the LEA plan.

The House recedes with amendment striking "development and use of teacher selected" and inserting "measures to include teachers in decisions regarding the use of" before "assessments."

261. The Senate amendment, but not the House bill, requires that schoolwide programs include measures to ensure that students who experience difficulty mastering any of the State standards during the course of the school year will be provided with additional assistance which shall include (1) measures to ensure that the student's difficulties are identified on a timely basis and to provide information on which to base the assistance, (2) periodic training for teachers in how to identify such difficulties and provide assistance (to the extent feasible), and (3) for any student who has not met the standards, teacher-parent conferences.

The House recedes with an amendment changing "Measures" to "Activities".

262. The Senate amendment, but not the House bill, includes a paragraph heading entitled "Plan".

Legislative counsel.

263. The Senate amendment, but not the House bill, allows schoolwide program schools to amend a plan that was in existence before the enactment of the Improving America's Schools Act.

The House recedes.

264. The House bill, but not the Senate amendment, requires that the schoolwide program plan to be developed in consultation with the school's support team or other technical assistance provider.

The Senate recedes.

265. The House bill refers to "such components"; the Senate amendment refers to "those components".

Legislative counsel.

266. The House bill requires schoolwide program plans to describe how the school will provide "individual student assessment results"; the Senate amendment requires schoolwide program plans to describe how the school will provide "valid and reliable individual student assessment results".

The Senate recedes.

267. The Senate amendment requires schoolwide program plans to provide for statistically reliable data on the achievement and assessment results of economically disadvantaged children disaggregated by gender, major ethnic or racial groups, children

with disabilities, and, where appropriate, LEP children; the House bill has a similar provision in its standards and assessment requirements.

The House recedes with an amendment requiring statistically sound results.

268. The House bill refers to "a review of the schools instructional practices in the context of available research on effective instructional and school improvement practices"; the Senate amendment refers to "effective instructional and school improvement practices".

The House recedes.

269. The House bill requires that the comprehensive plan be developed "during a one-year period"; the Senate amendment requires that the comprehensive plan be developed "over a one-year period";

The Senate recedes.

270. The House bill, but not the Senate amendment, requires that the technical assistance providers provide recommendations to the LEA on whether or not a school's schoolwide plan can be developed in less time than a one-year period.

The Senate recedes with an amendment striking "based on" and inserting "after considering".

271. The House bill refers to "it"; the Senate amendment refers to "such school".

Legislative counsel.

272. The House bill refers to "at the time this section takes effect"; the Senate amendment refers to "on the day preceding the date of enactment of the Improving America's Schools Act of 1994".

Legislative counsel.

273. The House bill refers to "such program"; the Senate amendment refers to "that program".

Legislative counsel.

274. The House bill refers to "during the first year"; the Senate amendment refers to "during the first year of assistance under such Act".

Legislative counsel.

275. The House bill requires that the schoolwide plan be developed with the involvement of the community to be served and individuals who will carry it out (including teachers, principals, other staff, parents, and students if the plan is carried out in secondary schools); the Senate amendment requires that the plan be developed by a schoolsite council composed of those individuals who will implement the plan (including teachers, pupil services personnel, parents, principals, and other staff).

The Senate recedes with an amendment inserting "and where appropriate, pupil services personnel, and".

276. The Senate amendment, but not the House bill, requires that the plan be in effect for the duration of the school's participation under this part.

The House recedes.

277. The House bill refers to "made available"; the Senate amendment refers to "available".

Legislative counsel.

278. The Senate amendment, but not the House bill, requires that the school wide plan be made available to the LEA.

The House recedes.

279. The House bill refers to "with the information"; the Senate amendment refers to "and the information".

Legislative counsel.

280. The House bill refers to "translated"; the Senate amendment refers to "shall be translated".

Legislative counsel.

281. The House bill, but not the Senate amendment, requires that the schoolwide

plan be developed, where appropriate, in coordination with programs under the School-to-Work Opportunities Act, the Perkins Vocational and Applied Technology Act, and the National and Community Service Trust Act.

The Senate recedes.  
282. The House bill, but not the Senate amendment, includes a subsection on accountability which requires (1) that schoolwide programs shall be subject to school improvement for failure to make adequate progress for two consecutive years, (2) that schoolwide programs in program improvement which have not made adequate progress by the third year following program improvement identification shall be subject to corrective action and where appropriate termination of its status as a schoolwide program, and (3) that a school that has forfeited its schoolwide status may not regain such status until the LEA determines that the school has adequately reformed its schoolwide program plan to enable it to make adequate progress toward meeting the State's challenging performance standards.

The Senate recedes with amendments deleting (2) and moving (3) to another place in the bill, and rewriting (1) to read "A school with a school-wide project shall be subject to the school improvement provisions of Section 1116."

#### Targeted Assistance Schools

283. The House bill refers to "schools selected to participate under section 1113"; the Senate amendment refers to "schools selected to receive funds under section 1113(c)".

Legislative counsel.

282. The House bill refers to "a schoolwide program" in two places; the Senate amendment refers to "a schoolwide program under section 1114" and "such a schoolwide program".

Legislative counsel.

285. The House bill requires targeted assistance schools to provide services only to eligible children who are identified as having the greatest need for special assistance; the Senate amendment requires targeted assistance schools to provide services only to economically disadvantaged children identified by teachers, in consultation with parents, administrators, and pupil services personnel, as having the greatest academic need for special assistance.

The Senate recedes.

286. The Senate amendment, but not the House bill, includes a paragraph heading entitled "Eligible Population".

Legislative counsel.

287. The House bill defines the eligible population to be (1) children up to age 21 who are entitled to a free public education through grade 12 and (2) children who are not yet at a grade level where the LEA provides a free public education yet are of an age where they can benefit from an instructional program; the Senate amendment encompasses the House definition of eligible population, but specifies that the child must be economically disadvantaged as well as meet the House criteria, and includes in the eligible population economically disadvantaged children who are also disabled, limited-English proficient, or a migrant.

The Senate recedes.

288. The House bill defines eligible children as children who are in the eligible population who are identified by the school as failing, or most at risk of failing to meet the State's performance standards on the basis of objective criteria established by the LEA, except that children from preschool through

grade 2 shall be selected solely on the basis of criteria such as teacher judgment, interviews with parents, and developmentally appropriate methods; the Senate amendment covers the "definition" of eligible children in its definition of eligible population.

The Senate recedes.

289. The House bill allows children receiving services to overcome a disability or limited English proficiency to be eligible for services in targeted assistance schools on the same basis as other children who are selected for services under this part; the Senate amendment makes children who are disabled and LEP children eligible for services if they are also economically disadvantaged.

The Senate recedes with amendment changing "receiving services to overcome a disability" to "with"; inserting "children" before "are eligible" and adding "migrant and economically disadvantaged children."

290. The Senate amendment, but not the House bill, includes a paragraph heading entitled "Special Rule".

Legislative counsel.

291. The House bill states that funds received under this part may not be used to provide services that are otherwise required by law to make available to disabled children and LEP children; the Senate amendment states that funds received under this part may not be used to provide services that are otherwise required by law to be made available to children who received services under Neglected and Delinquent during the 2 preceding years, homeless children attending school in the LEA, and children who participated in Head Start or Even Start during the 2 preceding years, but allows that funds received under this part may be used to coordinate or supplement such services.

The Senate recedes with an amendment adding at the end "but may be used to coordinate or supplement such services".

292. Both the House bill and the Senate amendment allow children who, in the 2 preceding years, participated in Head Start or Even Start to be automatically eligible for services under this part, but the House bill also allows children who, in the 2 preceding years, participated in a State-run preschool program.

The House recedes.

293. The House bill allows children who during the 2 preceding years received services under part D (N&D) to be eligible for services under this part; the Senate amendment requires that such a child be automatically eligible to receive services under this part.

The Senate recedes.

294. The House bill, but not the Senate amendment, requires that any child in a local institution for neglected and delinquent children or attending a community day program for such children is eligible for services under this part.

The Senate recedes with an amendment changing "is" to "may be".

295. The House bill requires that services under this part be provided to eligible homeless children who attend a school in an LEA which receives title I funds, and to the extent feasible, requires an LEA to use part A funds to serve eligible homeless children who attend schools in noneligible attendance areas, including providing educationally related support services to children in shelters (where appropriate); the Senate amendment requires that homeless children attending any school in the LEA is eligible for services.

The House recedes.

296. The Senate amendment, but not the House bill, includes a paragraph heading entitled "In General".

Legislative counsel.

297. The House bill refers to "to provide all students"; the Senate amendment served under this part".

The House recedes.

298. The House bill refers to "the State's challenging performance standards"; the Senate amendment refers to "the State's student performance standards in subject areas as determined by the State".

The House recedes.

299. The House bill refers to "its resources"; the Senate amendment refers to "such program's resources".

Legislative counsel.

300. The House bill refers to "the challenging performance standards"; the Senate amendment refers to "such State student performance standards".

The House recedes.

301. The House bill refers to "be based on research on effective means"; the Senate amendment refers to "be based on effective means".

The House recedes.

302. The Senate amendment, but not the House bill, requires that a component of a targeted assistance program shall ensure that planning for students served under this part is incorporated into existing school planning.

The House recedes.

303. The House bill requires that schools use effective instructional strategies, that give primary consideration to providing extended learning time such as an extended school year and before-and-after school programs and opportunities; the Senate amendment requires that schools use effective instructional strategies that increase the amount and quality of learning time.

The Senate recedes with an amendment inserting "and summer".

304. The House bill requires that schools use effective instructional strategies that involve an accelerated, high-quality curriculum, including applied learning, rather than remedial drill and practice; the Senate amendment requires that schools use effective instructional strategies that help provide an accelerated, high quality curriculum.

The House recedes with an amendment inserting "including applied learning" after "curriculum".

305. The House bill requires that schools use effective instructional strategies that minimize removing children from the regular classroom for instruction provided under this part; the Senate amendment requires that schools use effective instructional strategies isolating eligible children from other children in the school during regular school hours.

The Senate recedes with an amendment inserting "during regular school hours" after "classroom".

306. Both the House bill and the Senate amendment require that targeted assistance programs be coordinated with and support the regular education program, but the House bill states that targeted assistance program should support the regular program in providing an enriched and accelerated curriculum for eligible children.

The House recedes.

307. The Senate amendment allows targeted assistance programs, in supporting the regular education program, to include (1) counseling, mentoring and other pupil services, (2) college and career awareness and preparation services, and (3) services to prepare students for the transition from school to work; the House bill has similar provisions, but requires that such services be provided in participating schools serving children beyond grade six.

The House recedes with amendments adding references to comprehensive career development, occupational information, and occupational skills, personal finance, and other matter from the House bill.

308. The Senate amendment allows targeted assistance programs, in supporting the regular education program, to include services to assist preschool children in the transition from early childhood programs to elementary school programs; the House bill requires that similar services be included as a component of a targeted assistance program.

The House recedes.

309. The House bill refers to "highly qualified professional staff"; the Senate amendment refers to "highly qualified staff".

The House recedes.

310. The House bill requires targeted assistance schools to provide opportunities for intensive and sustained professional development; the Senate amendment requires such schools to provide opportunities for ongoing professional development to the extent the school determines feasible.

The House recedes with an amendment adding a cross reference to section 1119, and striking "ongoing".

311. The House bill requires targeted assistance programs to provide strategies to increase parental involvement including family literacy services; the Senate amendment requires targeted assistance programs to provide opportunities for parental involvement in accordance with section 1116.

The Senate recedes with an amendment changing "including" to "such as".

312. The House bill requires targeted assistance programs to provide plans for assisting preschool children in the transition from early childhood programs, such as Head Start, Even Start, or a State-run preschool program, to local elementary school programs; the Senate amendment allows targeted assistance programs, in supporting the regular education program, to include services to assist preschool children in the transition from early childhood programs to elementary school programs.

313. The House bill requires targeted assistance programs serving children beyond grade 6, in coordination with funds available from other programs and (as appropriate) drawing on private and public organizations to include (1) counseling and mentoring, (2) college and career awareness and preparation services; and (3) services to prepare students for the transition from school to work; the Senate amendment allows targeted assistance programs, in supporting the regular education program, to provide such services, but does not limit services to schools serving children beyond grade six (see note).

The House recedes with an amendment adding items from the House list in "Components of a Targeted Assistance School Programs".

314. The Senate amendment, but not the House bill, includes a paragraph heading entitled "Requirements".

Legislative counsel.

315. The House bill requires targeted assistance schools to develop a plan (in consultation with the LEA) to assist participating children to meet the State's "proficient" and "advanced" performance standards, and then outlines the plan requirements; the Senate amendment requires targeted assistance schools to assist participating children to meet the State's proficient and advanced levels of performance, and then lists what schools must do.

The House recedes.

316. The House bill, but not the Senate amendment, requires the school plan to de-

scribe the selection of children to participate in the program.

The House recedes.

317. The House bill requires the school plan to describe the program to be conducted that incorporates the targeted assistance program components that are outlined in the House bill and how resources will be coordinated with other resources to enable the children served to meet the State's standards; the Senate amendment requires targeted assistance programs to coordinate Title I resources with other resources to enable children served to meet the State content standards and the State student performance standards.

The House recedes.

318. The House bill, but not the Senate amendment, requires the school plan to describe how the school will review, on an ongoing basis, the progress of participating children and revise the program, if necessary, to provide additional assistance to enable children to meet the State's standards, and then gives a list of examples of this.

The Senate recedes with an amendment changing "review" to "reviewing" and "revise" to "revising" and moving to the assurances list, and an amendment not requiring a plan.

319. The House bill, but not the Senate amendment, requires the school plan to describe why, if a school is eligible to operate a schoolwide program, if choose not to do so.

The House recedes.

320. The Senate amendment requires targeted assistance schools to provide individual student assessment results, including an explanation of those results, to the parent of any child who participates in the assessment; the House bill has a similar requirement in its standards and assessment provisions.

The Senate recedes.

321. The House bill, but not the Senate amendment, requires that school plans, developed before a State has adopted standards and a set of assessments that meet the criteria in section 1111, shall be based on an analysis of available data on the achievement of participating children and a review of the school's instructional practices in the context of available research on effective instructional practices.

The House recedes.

322. The House bill, but not the Senate amendment, requires that (1) school plans be developed with the involvement of the community to be served and the individuals who will carry it out, (2) each plan be approved by LEA and made available to parents (translated, to the extent feasible, into the parent's native language), and (3) each plan be reviewed and revised, as necessary, by the school.

The House recedes.

323. The House bill refers to "staff paid with funds"; the Senate amendment refers to "staff supported with funds".

Legislative counsel.

324. The Senate amendment, but not the House bill, requires that nothing in this section shall be construed to prohibit a school from serving students served under this similar educational needs, in the same educational settings, where appropriate.

The House recedes.

325. The Senate amendment allows targeted assistance schools, (1) if health, nutrition, and other social services are not otherwise available to children in those schools, (2) if the school has engaged in a comprehensive needs assessment and established a col-

laborative partnership with local service providers, and (3) if funds are not reasonably available from other public or private sources, to use Part A funds as a last resort in providing health, nutrition, and other social services; the House bill creates a separate authority under Title X of ESEA which allows LEAs to use up to 5% of other ESEA program funds for coordinated services activities (see the House Title X side-by-side).

The House recedes with amendments inserting "a portion of the" before "funds" in (1) and "necessary to assist" before for teachers in (1)(C).

326. The Senate amendment requires targeted assistance schools to use not less than 10% of their Title I funds to carry out professional development activities except that a school may enter into consortia, and the 10% set-aside requirement shall not apply to a school if 10% of the funds the school receives is equal to less than \$5,000; the House bill requires targeted assistance programs to provide, with Title I resources and with other sources, opportunities for intensive and sustained professional development (in accordance with section 1119) for administrators and for teachers and other school staff who work with participating children in Title I programs or in the regular education program.

The House recedes with an amendment.

#### School Choice

327. The House bill, but not the Senate amendment, allows LEAs receiving Part A funds, after developing a plan, to develop and implement school choice programs for children eligible for Title I assistance which allow parents to select the public school receiving Title I funding that their children will attend.

The Senate recedes with amendments striking "other Federal"; adding a provision that both the sending school and receiving school need to be in agreement on allowing the child to transfer schools; adding a provision that funds may not be used under this part to provide transportation; and adding a provision that the choice program must comply with all provisions of this part.

#### Assessment and School and Local Educational Agency Improvement

328. The House bill provides that local educational agencies use State assessments to review annually whether schools served under this part are making adequate progress, as defined in section 1111(b)(2)(A)(i) or section 1112(b)(2) toward enabling students to meet the State's performance standards; the Senate amendment contains a similar provision with adequate progress defined in section 1111(b)(2)(A)(i) for meeting the "State's student performance standards described in the State plan" and other technical differences.

The House recedes.

329. The House bill refers to "measures"; the Senate amendment refers to "measures or indicators".

The House recedes.

330. The House bill provides that local educational agencies disseminate to teachers and others the results of the annual review under paragraphs (1) and (2) in individual student profiles; the Senate amendment contains a similar provision adding "other staff" to the list of those the information is to be provided and a different cross reference.

The House recedes with an amendment clarifying that the data provided should be statistically sound and disaggregated.

331. The House bill provides that the results of the annual review be given to

schools so they can refine their program of instruction to help all children in such schools to meet the State's high performance standards; the Senate amendment provides that the review be given to schools so that "local educational agencies" can refine the program to help all children "served under this part" meet the State's "student performance standards" and other drafting differences.

The House recedes with an amendment striking "the local educational agency" and inserting "schools".

332. The House bill, but not the Senate amendment, provides that State educational agencies and local educational agencies receiving funds shall designate distinguished schools in accordance with section 1117.

The Senate recedes.

333. The Senate amendment, but not the House bill, includes a paragraph heading "In General".

Legislative counsel.

334. Both the House bill and Senate amendment shall identify for program improvement any school that has been in school improvement for at least two consecutive years with drafting difference and two different cross references to current law of which only one can be correct.

Legislative counsel.

335. The House bill refers to schools that have not made adequate progress as defined in sections 111(b)(2)(A)(i) or 1112(b) Technical difference only (2), as appropriate for two years; the Senate amendment refers to adequate progress as defined in section 111(b)(2)(A)(i).

The House recedes.

336. Both the House bill and the Senate amendment provide that a school not be identified for school improvement if virtually all students meet the State's advanced performance standards with technical differences.

The House recedes.

337. The Senate amendment, but not the House bill, refers to in the case of a targeted assistance program, such school may be reviewed only on the progress of those students that have been, are, or will be served under this part.

The House recedes with an amendment clarifying a reference to targeted assistance schools.

338. Both the House bill and the Senate amendment refer to a school that has failed to meet the criteria established through its interim procedure for two consecutive years with minor technical differences.

Legislative counsel, including a reference to transitional assessment.

339. The Senate amendment, but not the House bill, includes a paragraph heading entitled "Requirements".

Legislative counsel.

340. The House bill provides that each school revise "its school plan under section 1114 or 1115" in consultation with certain groups including for schoolwide programs school support teams, to improve performance in meeting the state's performance standards; the Senate amendment provides that the school "develop or" revise "a school plan" to meet the "state's student performance standards".

The House recedes.

341. The House bill, but not the Senate amendment, says that the school plan be reviewed in the context of the State's model opportunity-to-learn standards.

The Senate recedes with an amendment striking "including" and inserting in lieu thereof "which may include".

342. The House bill provides that the revised plan be submitted to the local educational agency for approval; the Senate amendment provides that "the plan" be submitted to the local educational agency for approval.

The House recedes with an amendment inserting "or revised plan" after "plan".

343. Both the House bill and Senate amendment provide that schools have the opportunity to provide evidence to the local educational agency before being identified for program improvement with technical differences.

Legislative counsel.

344. The House bill refers to "its identification"; the Senate amendment refers to "such identification."

Legislative counsel.

345. The House bill refers to "would be in error"; the Senate amendment refers to "is in error."

House recedes with amendment to add "due to statistical or other reasons" after "is in error".

346. The House bill refers to "it may"; the Senate bill refers to "such school may."

Legislative counsel.

347. The House bill says the school shall implement its revised plan; the Senate amendment says the school shall implement such school's plan.

The House recedes with an amendment inserting "or revised plan" at the end of (B).

348. The House bill says the local educational agency shall make technical assistance available as identified schools determine why their plan failed to bring about increased achievement and develop and implement revised plans; the Senate amendment says that technical assistance be provided to identified schools as the school develops and implement's such school's plan and has a subparagraph heading.

The House recedes with an amendment adding "or revised plan"

349. The House bill, but not the Senate amendment, says that technical assistance may be provided directly by local educational agencies, through mechanisms authorized under section 1117, or by an institution of higher education, a private nonprofit, an educational service agency, federal technical assistance centers, or by other entities with experience in helping school improve achievement.

The Senate recedes incorporating this provision into paragraph (3) of the Senate provision and other provisions from the House bill concerning illustrating types of technical assistance, but adds "with LEA approval" before "by an institution."

350. The Senate amendment, but not the House bill, includes a paragraph heading entitled "Corrective Action."

Legislative counsel.

351. The House bill, but not the Senate amendment, says that technical assistance and other remedial measures be provided before corrective action is taken.

The Senate recedes.

352. The House bill provides that corrective actions are those listed in the local educational agency plan and adopted in compliance with state law; the Senate amendment provides that corrective actions are those, consistent with State and local law, determined and made public and disseminated by the local educational agency.

The House recedes.

353. The House bill, but not the Senate amendment, says corrective action may include implementing the State's model opportunity-to-learn standards.

The Senate recedes with an amendment: "opportunity to learn standards or strategies developed by such State under Public Law 103-227".

354. The House bill refers to alternative governance arrangements such as the creation of a "charter school"; the Senate amendment includes the creation of a "public charter school" (subclause VII).

The House recedes.

355. The House bill refers to authorizing student transfers to other schools in the local educational agency including "paying for transportation"; the Senate amendment refers to "including transportation costs", and to "other public schools served by the local educational agency" (subclause IX).

The House recedes.

356. The Senate amendment, but not the House bill, provides that corrective action may include withholding funds.

The House recedes.

357. The Senate amendment, but not the House bill, provides that corrective action may include "an aggressive joint plan between the LEA and the school."

The House recedes with an amendment moving the provision to the technical assistance part of this section and deleting "aggressive".

358. The Senate amendment, but not the House bill provides that a corrective action can include interagency collaborative agreements.

The House recedes.

359. The Senate amendment, but not the House bill, provides that a corrective action can include waivers or modifications of LEA policy or regulations.

The House recedes with an amendment moving the provision to the technical assistance part of this section, but it is not the conferees' intent that local education agencies be precluded from waiving or modifying requirements of local education agency policy or regulation as a corrective action if it impedes the ability of a school to educate students.

360. Both the House bill and the Senate amendment refer to terminating schoolwide status but with minor technical differences.

Legislative counsel.

361. The Senate amendment, but not the House bill, provides that certain corrective actions shall not be taken until the state has developed assessments that meet the requirements of section 1111(b).

The House recedes.

362. The Senate amendment, but not the House bill, provides that the local educational agency may refrain from corrective action in certain circumstances.

The House recedes with an amendment inserting "for one additional year" before "to the extent" and striking text, beginning with "such as" through the end of the sentence, and inserting "as determined by the LEA."

363. The Senate amendment, but not the House bill, includes a paragraph heading entitled "State Educational Agency Responsibilities."

Legislative counsel.

364. The House bill refers to technical assistance under section 1117 and the State's standards; the Senate amendment refers to assistance from school support teams and distinguished educators under section 1119 and the State's student performance standards with other technical differences.

The Senate recedes with an amendment changing "furthest" to "farthest" and inserting "student performance" before "standards".

365. The House bill refers to take corrective action which may include actions in

compliance with state law to withhold or transfer funds and authority from schools that are failing to make adequate progress; the Senate amendment refers to "take such corrective action as the State educational agency deems appropriate" with other technical drafting differences.

The House recedes with an amendment adding at the end "and which are in compliance with State law".

366. The Senate amendment, but not the House bill, has a paragraph heading.

Legislative counsel.

367. The House bill refers to "performance standards"; the Senate amendment refers to "levels of performance."

The House recedes.

368. The House provides that the state educational agency annually review the progress of each local educational agency receiving funds to determine whether all students in schools receiving assistance are making adequate progress as defined in sections 1111(b)(2)(A)(i) or 1112(b)(2) toward meeting state performance standards; the Senate amendment has a paragraph heading and provides that the state educational agency determine whether the local educational agency is making adequate progress as defined in sec. 1111(b)(2)(A)(i) toward meeting the State's student performance standards.

The Senate recedes with an amendment striking "all students in"; and reference to section 1112(b)(2).

369. The House bill requires the SEA to disseminate the results of the State review to teachers, parents, students, and the community; the Senate amendment requires dissemination to LEAs, teachers, and other staff, parents, students, and the community.

The House recedes.

370. The House bill refers to local educational agencies with a school or schools receiving assistance under this part which have exceeded the State's definition of adequate progress as defined by the State or local educational agency, as appropriate; the Senate amendment has a paragraph heading and refers to a local educational agency that has met or exceeded the State's definition of adequate progress.

The House recedes. It is not the intent of the managers to reward local educational agencies that are, in the aggregate doing well, but that have a number of individual schools that are not.

371. The House bill provides that the State agency shall identify for program improvement any local educational agency that for two consecutive years has a school or schools receiving assistance under this part that are not making adequate progress towards meeting the Senate performance standards; the Senate amendment has a subparagraph heading and provides that the State educational agency shall identify local educational agencies not making adequate progress in schools served under this part toward meeting the State's student performance standards.

The House recedes.

372. The Senate amendment, but not the House bill, provides that schools served by the local educational agency that are operating targeted assistance programs may be reviewed on the basis of the progress only of those students reserved.

The House recedes with amendment changing the wording from "not operating schoolwide programs" to "operating targeted assistance programs".

373. The House bill refers to "its interim procedure;" the Senate amendment refers to "its transitional procedure" with different cross references.

The House recedes.

374. The Senate amendment, but not the House bill, says that the local educational agency be provided the opportunity to provide evidence that identification for program improvement is in error.

The House recedes with amendment including "due to statistical or other substantive reasons".

375. The House bill provides that an identified local educational agency revise its plan to improve the performance of its schools in meeting the State's performance standards; the Senate amendment has a paragraph heading and provides that the revision improve the performance of "schools served by the local educational agency" in meeting the state's "student" performance standards.

The House recedes with an amendment inserting at the end of paragraph (4) "including determining why the local educational agency's plan failed to bring about increased achievement".

376. The House bill, but not the Senate amendment, provides that the plan be reviewed in the context of the State's model opportunity-to-learn standards and that the plan be submitted to the state educational agency for approval.

The Senate recedes with an amendment striking "including" and inserting in lieu thereof "which may include".

377. The House bill, but not the Senate amendment, provides that the State educational agency determine why the local educational agency plan failed to bring about increased achievement.

The House recedes.

378. The House bill refers to technical assistance, if requested, as authorized under section 1117 to better enable the LEA to develop and implement its revised plan; the Senate amendment has a paragraph heading and refers to technical assistance be provided to better enable the LEA to develop and implement the local educational agency's revised plan.

The Senate recedes.

379. The House bill provides that technical assistance under section 1117 (which provides for school support teams and distinguished schools and educators) be provided to local educational agencies furthest from meeting the state's standards; the Senate amendment provides that assistance be provided from school support teams and distinguished educators under section 1119.

The Senate recedes with an amendment changing "furthest" to "farthest" and inserting related matter from another part of the bill.

380. The House bill, but not the Senate amendment, states that technical assistance may be provided directly by the state educational agency directly, and institution of higher education, a private nonprofit, a technical assistance center, an educational service agency, or other entity with experience in assisting local educational agencies improve achievement.

The Senate recedes.

381. The Senate amendment, but not the House bill, has a paragraph heading.

Legislative counsel.

382. The House bill, but not the Senate amendment, requires that technical assistance and other remediation measures be provided before a state educational agency takes corrective action against a local educational agency.

The Senate recedes.

383. The House bill refers to corrective actions listed in the State educational agency plan adopted in compliance with State law;

the Senate amendment refers to those, consistent with State law, determined and made public and disseminated by the State educational agency.

The House recedes. The conferees intend the type of corrective action to be a state decision and do not intend this list to be exhaustive. It is also the conferees' intent that the Secretary may not take any adverse action against an SEA based on the specific type of corrective action it elects to undertake, unless it is inconsistent with state law.

384. The House bill, but not the Senate amendment, includes implementing the State's model opportunity-to-learn standards in its list of examples of corrective actions.

The Senate recedes with an amendment: "opportunity to learn standards or strategies developed by such State under Public Law 103-227".

385. The House bill refers to "reconstitution of district personnel." The Senate amendment refers to "reconstitution of school district personnel (subclause V).

Legislative counsel.

386. The House bill refers to appointment by the State educational agency of a receiver or trustee to administer the affairs of the local educational agency in place of the superintendent or school board; the Senate bill refers to appointment by the State educational agency of a representative to implement, in conjunction with the local educational agency, a program improvement plan (VI).

The Senate recedes.

387. The House bill, but not the Senate amendment, refers to the abolition or restructuring of the local educational agency.

The Senate recedes.

388. The Senate amendment, but not the House bill, refers to withholding of funds and an aggressive joint plan between the state and local educational agency that addresses student performance levels.

The House recedes with an amendment deleting "aggressive".

389. The Senate amendment, but not the House bill, refers to interagency collaborative agreements between the local educational agency and other public agencies to provide, health, pupil services, and other social services.

The House recedes with an amendment to move the language to the technical assistance section but it is not the conferees' intent that state education agencies be precluded from establishing interagency or collaborative agreements or from undertaking this activity in the course of taking corrective actions.

390. The Senate amendment, but not the House bill, refers to waivers or modifications of State law or regulation that impede the ability of a local educational agency to educate students.

The House recedes with amendment to move the language to the technical assistance section but it is not the conferees' intent that state education agencies be precluded from undertaking this activity in the course of taking corrective actions.

391. The House bill refers to removal of particular schools from the jurisdiction of the local educational agency and establishment of alternative arrangements for governing and supervising such schools; the Senate amendment has a similar provision and refers to "public governance and supervision of such schools, including contracts with private management companies".

The Senate recedes with an amendment striking "governing and supervising" and inserting "public governance and supervision".

392. The House bill refers to authorizing of students to transfer from 1 local educational agency to another; the Senate amendment refers to authorizing students to transfer to another public school including the cost of transportation.

The Senate recedes.

393. The Senate amendment, but not the House bill, refers to contracting out the management of troubled schools to private management firms.

The House recedes.

394. The Senate amendment, but not the House bill, says corrective action shall not include certain actions until the State has developed assessments that meet the requirements of paragraph (3)(e).

The House recedes.

395. The Senate amendment, but not the House bill, says that prior to implementing any corrective action, the State educational agency shall provide due process, including a hearing to an LEA and may refrain from such corrective action to the extent that failure to make progress can be attributed to extenuating circumstances.

The House recedes with amendment adding "if State law provides," and modifying the last part to read "as determined by the State educational agency."

396. The Senate amendment, but not the House bill, has a paragraph heading.

Legislative counsel.

397. The House bill establishes a process for determining the amount a State shall be eligible to receive, except that each state shall receive at least \$180,000 or \$30,000 in the case of Guam, American Samoa, the Virgin Islands, the Northern Marianas, and Palau (until the Compact of Free Association goes into effect.) The Senate amendment, in section 1702, provides for a set-aside of funds for States, with separate requirements for small States and outlying areas.

The Senate recedes with an amendment striking "under such sections" through the end of the provision and inserting "and outlying areas" in lieu thereof.

398. The Senate amendment, but not the House bill, permits the Secretary to deem an alternative accountability system as meeting the requirements of this section if a State has developed such a system for all children that is as rigorous as the system required by this section.

The Senate recedes.

399. The Senate amendment, but not the House bill, says nothing in this section shall be construed to alter or otherwise affect the rights afforded school or school district employees under federal, state, or local laws or under the terms of collective bargaining agreements and other agreements.

The House recedes.

#### *State Assistance for School Support and Improvement*

400. Both the House bill and Senate amendment say that state educational agencies shall establish a statewide system of support and improvement for schools under this title. The House bill refers to "all schoolwide programs and all schools", the Senate amendment refers to schoolwide programs and schools.

The Senate recedes.

401. The House bill, but not the Senate amendment, states that the sustained support should be established in order to increase the opportunity for all students in such schools to meet the State's content and performance standards.

The Senate recedes.

402. The House bill says funds appropriated pursuant to section 1002(6) shall be used for

this section and funds under section 1002(1) and other funds may be used to meet such requirement; the Senate amendment says state administration funds and at the discretion of the local educational agency, local educational agency funds under this part may support school support teams.

The Senate recedes with an amendment striking "and notwithstanding section 1002(1)" and "or local" and inserting "State administrative" before "funds", and adding at the end "a local educational agency may use funds made available under section 1002(1) and other available funds to meet such requirements."

403. The House bill, but not the Senate amendment, requires that the statewide system be linked to and receive support and assistance from regional technical assistance centers under Part D of Title II and the regional labs.

The Senate recedes with an amendment striking be linked to" and inserting "work with".

404. The House bill entitles the subsection Provisions; the Senate amendment entitles the subsection Components and has other minor drafting differences.

Legislative counsel.

405. The House bill refers to "consultation with local educational agencies", "to each schoolwide program and to assist such program in providing an opportunity to all students to meet the State's performance standards"; the Senate amendment refers to "consultation with local educational agencies and schools", "to schoolwide programs or a school in which the number of poor students is 75 percent or more of the total student population and such school is identified in need of improvement".

The House recedes with amendment inserting a new paragraph providing for assistance to high-poverty targeted assistance programs and other programs if sufficient funds are available.

406. The House bill says the teams be composed of individuals with experience in successfully improving the educational opportunities for low-achieving students, especially individuals identified in paragraph (3); the Senate amendment says each team be composed of persons, including teachers, pupil services personnel, representatives of organizations knowledgeable about successful schoolwide projects or comprehensive school reform.

The House recedes with an amendment combining the House and Senate provisions.

407. The House bill refers to individuals knowledgeable about research and practice on teaching and learning, including alternative and applied learning, especially for low achieving students; the Senate amendment refers to "other persons" who are knowledgeable about research and practice on teaching and learning, "particularly about strategies for improving the educational opportunities for eligible children, such as representatives of institutions of higher education, regional education laboratories or research centers, and outside consultant groups.

The House recedes with an amendment changing "eligible children" to "low-achieving students", and adding at the end "and individuals knowledgeable about alternative and applied learning". Also add "including alternative and applied learning" after "teaching and learning".

408. The House bill says the school support team shall work with each school as it develops its schoolwide program plan; the Senate amendment says the team shall work coop-

eratively with each school and make recommendations as the school develops its schoolwide program plan or school improvement plan.

The House recedes.

409. The House bill refers to during the operation of the schoolwide programs; the Senate amendment refers to during the operation of the schoolwide program or during school improvement activities.

The House recedes.

410. The House bill refers to the State's performance standards; the Senate amendment refers to the States performance standards under this part.

The House recedes.

411. The House bill refers to make suggestions for improvement; the Senate amendment refers to make recommendations for improvement.

The House recedes.

412. Both the House bill and Senate amendment refer to designating schools as distinguished schools if for three years they have exceeded the State's definition of adequate progress with minor technical differences and different cite references.

Legislative counsel.

413. The House bill refers to any school in which virtually all students have met the State's advanced performance standards; the Senate amendment refers to any school in which almost every student has met the State's advanced level of performance.

The Senate recedes.

414. The House bill, but not the Senate amendment, refers to and in which equity in participation and achievement of students by sex has been achieved or significantly improved.

The Senate recedes.

415. The House bill, in subparagraph (B), refers to schools designated under this paragraph; the Senate amendment refers to schools designated as distinguished schools under subparagraph (A).

The Senate recedes.

416. The House bill refers to provide support for other schools; the Senate amendment refers to provide additional assistance to other schools served under this part.

The Senate recedes.

417. The House bill refers to assist such schools in meeting the State's performance standards; the Senate amendment refers to that are not making adequate progress.

The Senate recedes with an amendment inserting "student" and "school".

418. The House bill refers to "schools in program improvement"; the Senate amendment refers to "schools in school improvement".

The House recedes.

419. The House bill says that states shall use funds under 1002(6) to allow schools to carry out the activities described in subparagraph (B); the Senate amendment says a state shall use funds under section 1701(c) (State funds for school improvement should be section 1702) to recognize distinguished schools including monetary awards.

The Senate recedes.

420. The House bill says the state may use such funds to provide awards to schools; the Senate amendment says funds awarded to a distinguished school may be used by the school and has other technical differences.

The Senate recedes.

421. The House bill refers to schoolwide programs; the Senate amendment refers to schools participating in schoolwide programs and has a different cross reference.

Legislative counsel.

422. The House bill refers to meeting the State's performance standards; the Senate

amendment refers to the State's student performance standards.

The House recedes.

423. The House bill refers to agencies furthest from meeting the State's standards and schoolwide programs as they; the Senate amendment refers to agencies furthest from meeting the State's student performance standards and to schoolwide programs as such programs.

The House recedes with an amendment changing "furthest" to "farthest".

424. The House bill refers to funds under section 1002(6); the Senate amendment refers to funds made available under section 1701(c) and has a subsection heading.

Legislative counsel.

425. The House bill says if a state has devised; the Senate amendment says the State may devise and has a paragraph heading and a different subsection reference.

The House recedes.

426. The House bill says the State may seek approval from the Secretary to use funds authorized in section 1002(6) for such approaches as part of the State plan; the Senate amendment says and may use funds authorized in section 1701(c) for such approaches.

The Senate recedes with amendment changing the beginning of the first sentence to read "The State may devise" and striking "alternative or".

427. The Senate amendment, but not the House bill, says that paragraphs (1) and (3) shall not apply to a state educational agency if it determines that a local educational agency or school is receiving adequate technical assistance from another source.

The Senate recedes.

#### *Parental Involvement Provisions*

428. The House bill, but not the Senate amendment, refers to "(a) In General.—A local educational agency may receive funds under this part only if it implements programs, activities, and procedures, for the involvement of parents and that the activities shall be planned and implemented with meaningful consultation with parents of participating children".

The Senate recedes with an amendment adding "consistent with the provisions of this section" after "title".

429. The House bill refers to "(a) In General.—;" the Senate amendment refers to "(a) Local Educational Agency Policy.—(1) In General"

Legislative counsel.

430. The House bill refers to "(b) Local Educational Agency Policy."; the Senate amendment refers to "(a) Local Educational Agency Policy—".

Legislative counsel.

431. The House bill refers to "and make available to"; the Senate amendment refers to "and distribute to" when referring to a written parent involvement policy.

The House recedes.

432. The House bill refers to "involve parents in the development of the plan"; the Senate amendment refers to "involve parents in the joint development and approval of the plan".

The House recedes with amendment striking "joint" and "approval" and inserting a new (a)(3): "If the plan described under section 1112 is not satisfactory to the parents of participating children, the local educational agency shall submit any parent comments on the plan when it submits such plan to the state for approval."

433. The House bill refers to "coordinate and integrate parental involvement strategies with parental involvement in other pro-

grams including Head Start, Even Start, Parents as Teachers and State-run preschool programs"; the Senate amendment indicates that the plan must "coordinate and integrate parent involvement strategies with those under other programs."

The Senate recedes with an amendment changing "including" to "such as" and inserting "Home Instruction Program for Preschool Youth".

434. The House bill requires that the plan must show how the local educational agency will conduct an annual evaluation of the content and effectiveness of the parental involvement policy with the involvement of parents in increasing the participation of parents to identify barriers to greater participation by parents. The House bill also requires that the plan must show how the local educational agency gives particular attention to parents who are economically disadvantaged, disabled, have limited-English proficiency, limited literacy, or are of any racial or ethnic minority background and use the findings in designing strategies for school improvement.

The Senate amendment ensures that participating schools (i) review the effectiveness of their parent involvement activities on an ongoing basis; (ii) identify and take steps to remove any barriers to greater parental involvement, including barriers resulting in lower rates of participation in the parent involvement activities by parents who are economically disadvantaged, disabled, have limited literacy, have limited-English proficiency, or are from any racial or ethnic minority background; and (iii) use the findings of such review in designing strategies for school improvement and revising the parent involvement policies, if necessary.

The Senate recedes with amendment inserting after "improvement" the phrase "revising, if necessary, the parent involvement policies described in this subsection and subsection (b)(1).

435. The House bill, but not the Senate amendment, requires that each local educational agency shall reserve, not less than 1 percent under this part, for the purposes of carrying out this section, including family literacy and parenting skills.

The Senate recedes with an amendment adding that where the 1% set-aside would be equal to less than \$5,000, the requirement does not apply and that parents will be involved in determining how these funds are spent.

436. The House bill refers to a "School Parental Involvement Plan—"; the Senate amendment refer to a "School Parental Involvement Policy—".

Legislative counsel.

437. The House bill uses "make available to" parents of participating children and also uses "parental" in stead of parent in some places. The Senate amendment uses "and distribute to" parents of participating children". The Senate amendment also refers to "Such policy shall be updated periodically to meet the changing needs of parents and the school".

The House recedes.

438. The House bill refers to "If the local educational agency has an agency-wide parental involvement policy that applies to all parents, it may amend such policy, if necessary, to meet the requirements of this subsection"; the Senate amendment includes similar language under a separate heading: "(2) Special Rule.—If the school has a parental involvement policy that applies to all parents, such school may amend that policy, if necessary, to meet the requirements of this subsection".

Legislative counsel.

439. The House bill refers to "If the school has a parental involvement policy that applies to all parents, it may amend such policy, if necessary, to meet the requirements of this subsection"; the Senate amendment includes similar language under a separate heading: "(2) Amendment.—If the local educational agency has a school district-level parental involvement policy that applies to all parents, such agency may amend that policy, if necessary, to meet the requirements of this subsection".

Legislative counsel.

440. The House bill refers to "parent's rights" to be involved; the Senate amendment refers to "their".

Legislative counsel.

441. The House bill refers to "including the development of the school plan under section 1114 or 1115 or if a school has in place a process for involving parents in the planning and design of its programs, the school may use such process, provided that the process includes an adequate representation of parents of participating children"; the Senate amendment refers to "including the school parental involvement policy and the joint development and approval of the schoolwide program plan under section 1114(b), except that if a school has in place a process for involving parents in the joint planning, design, and approval of its programs, the school may use that process, provided that such process includes an adequate representation of parents of participating children".

The House recedes with amendment striking "and the joint development and approval" and inserting "and development." Also, inserting a new (5): "If the schoolwide program plan under section 1114(b) is not satisfactory to the parents of participating children, the school shall submit any parent comments together with such plan to the local educational agency" and adding a new 1116(c)(5): "If the schoolwide program plan under section 1114(b) is not satisfactory to the parents of participating children, the school shall submit any parent comments when it submits such plan to the local educational agency for approval."

442. The House bill refers to "(B) school performance profiles required under section 1116(a)(2) and individual student assessment results, including an interpretation of such results, required under section 1111(b)(3); the Senate amendment refers to "(B) school performance profiles required under section 1118(a)(3)".

The Senate recedes with an amendment inserting "their own child's" before "assessment results".

443. The House bill refers to "(C) opportunities for regular meetings to formulate suggestions, if such parents so desire"; the Senate amendment refers to "(2) offer a flexible number of meetings, such as meetings in the morning or evening, and may provide, with funds provided under this part, transportation, child care, or home visits, as such services relate to parental involvement.

The House recedes.

444. The House bill refers to "(D) timely responses to parents' recommendations"; the Senate amendment refers to "(E) timely responses to the suggestions described in subparagraph (E)".

The Senate recedes.

445. The Senate amendment, but not the House bill, requires a description and explanation of the curriculum in use at the school, the form of assessment used to measure student progress, and the proficiency levels students are expected to meet.

The House recedes.

446. Both the House bill and the Senate amendment includes a section on "Shared Responsibilities for High Student Performance." The House bill refers to "parental involvement plan"; the Senate amendment refers to "parental involvement policy".

Legislative counsel.

447. The Senate amendment, but not the House bill, includes "served under this part" twice.

The House recedes.

448. Both the Senate amendment and the House bill describe specific components of the shared responsibilities. The House bill refers to "State's challenging performance standards" the Senate amendment refers to "State's student performance standards."

The House recedes.

449. The House bill refers to "his or her children's learning"; the Senate amendment refers to "their children's learning".

Legislative counsel.

450. The House bill refers to "including monitoring attendance"; the Senate amendment refers to "such as monitoring attendance".

The House recedes.

451. The Senate amendment, but not the House bill, includes "served under this part".

The House recedes.

452. The House bill refers to "as it relates" when referring to individual child's achievement; the Senate amendment refers to "as the compact relates".

Legislative counsel.

453. The House bill, requires reasonable access to staff and observation of classroom activities"; the Senate amendment refers to "reasonable access to staff, opportunities to volunteer and participate in their child's class, and observation of classroom activities".

The House recedes.

454. The House bill places "shall" in each sentence in the text of "Building Capacity for Involvement"; the Senate amendment places one "shall" which refers to the other items listed, at the end of the beginning paragraph.

The Senate recedes.

455. The House bill refers to "the State's content and performance standards"; the Senate amendment refers to "the State's content standards and State student performance standards".

The House recedes.

456. The House bill, but not the Senate amendment, includes "opportunity-to-learn standards".

The Senate recedes with an amendment striking "opportunity to learn standards" and inserting in lieu thereof "the provisions of section 1111 of the State plan."

457. The House bill refers to "a child's progress"; the Senate amendment refers to "their children's progress".

Legislative counsel.

458. The Senate amendment, but not the House bill, includes "as well as information on how parents can participate in decisions relating to the education of their children".

The House recedes with an amendment adding "shall" before "provide".

459. Both the House bill and Senate amendment includes a list of requirements for each school and local educational agency for building capacity for involvement. A number of the activities are similar in concept, but uses different language. The House bill includes materials and training including coordinating necessary literacy training and training to enable parents to work more effectively with teachers, schools and the

school system; and in the case of a school using funds under this part to operate a pre-school program, opportunities for parents to learn about child development and child rearing issues beginning at birth.

The Senate recedes.

The House bill further includes activities for building capacity for involvement such as educating teachers, principals and other staff in the value of contributions to parents; developing appropriate roles for community-based organizations and businesses in parent involvement activities; requiring that information be sent to the parents' homes; involving parents in the development of training for educators; may provide necessary literacy training; may pay reasonable and necessary expenses associated with local parental involvement activities; may coordinate and integrate parent involvement programs and activities with other programs; training and supporting parents to involve other parents; arranging meetings at a variety of times in order to maximize the attendance of parents; conducting in-home conferences with parents; and may adopt and implement model approaches to improving parental involvement such as Even Start.

The House recedes with an amendment striking "with" and inserting "such as" before "Head Start."

The Senate amendment also includes a list of activities for building capacity for involvement. The Senate amendment provides for materials and training, such as necessary literacy training that is not otherwise available from other sources to help parents work with their children; with the assistance of parents, educating educators about the value and utility of contributions of parents; coordinating and integrating parental involvement with other Federal programs, to the extent feasible; as appropriate and feasible, other activities, such as parent resource centers; and providing other reasonable support for parental involvement activities as parents may request.

The Senate recedes with an amendment combining the provisions and inserting "Part A before Title II of this Act."

460. The House bill refers to "ensure that parents of limited-English proficient children or disabled children be afforded the same access to parental involvement opportunities as their children are afforded to other programs funded under this part, including the provision of information in a language and form that the parents of such children can understand."; the Senate amendment refers to "shall provide full opportunities for the participation of parents with limited English proficiency or with disabilities, including providing information and school profiles in a language and form such parents understand."

The House recedes.

461. The Senate amendment, but not the House bill, includes a Parental Information and Resource Centers provision which requires specific information for parents from the Centers in States where such Centers have been established.

The House recedes.

#### *Professional Development*

462. The House bill requires, in a separate section, LEAs receiving Title I assistance to provide high-quality professional development that will improve the teaching of the core academic subjects to enable all children to meet the State's performance standards, and requires that the professional development activities be designed by teachers and other school staff in title I schools; the Senate amendment requires schools receiving

assistance to set aside 10% of their Title I funds for professional development (see notes 219 and 307) and (1) requires, under the schoolwide program section, schoolwide schools to provide ongoing professional development for teachers, pupil services personnel, parents, principals, and other staff to enable all children in the school to meet the State performance standards, and requires that the activities be jointly developed by the principals, teachers, and other school staff of each school, and (2) requires, under the targeted assistance program section, that targeted assistance schools provide opportunities for ongoing professional development to the extent the school determines feasible with Title I resources and other resources for administrators, teachers, and other school staff who work with participating children in targeted assistance programs or in the regular education program. (See notes 235 and 291).

The Senate recedes on having a separate section, and on the 10% set-aside, and with an amendment adding "principals" before "teachers" in paragraph (2), striking "sustained" in paragraph (1).

463. The House bill, but not the Senate amendment, requires that professional development activities support instructional practices that are geared to State content standards.

The Senate recedes.

464. The House bill, but not the Senate amendment, requires that professional development activities create a school environment conducive to high achievement in the core academic subjects, and support LEA plans, schoolwide plans, and targeted assistance plans.

The Senate recedes with an amendment striking reference to section 1114 (targeted assistance). The Senate recedes with an amendment striking "recent"; inserting "where possible" after "learning"; striking "are of sufficient intensity and duration to" and inserting "are designed to"; changing "are part of the everyday activities of the school and creates and orientation toward" to "contribute to"; and changing "assist" to "provide technical assistance".

465. The House bill, but not the Senate amendment, requires that professional development activities draw on resources available under this part, Goals 2000, and Title II.

The Senate recedes.

466. The House bill, but not the Senate amendment, requires that professional development activities, where appropriate, include strategies for developing curricula and teaching methods that integrate academic and vocational instruction.

The Senate recedes with an amendment "where determined appropriated by the local educational agency".

467. The House bill, but not the Senate amendment, requires that professional development activities include strategies for identifying and eliminating gender and racial bias in instructional materials, methods, and practices.

The Senate recedes.

468. The House bill, but not the Senate amendment, allows professional development activities to include instruction in the use of assessments.

The Senate recedes.

469. The House bill, but not the Senate amendment, allows professional development activities to include instruction in the ways that teachers, principals, and school administrators may work more effectively with parents.

The Senate recedes with an amendment adding "pupil services personnel".

470. The House bill, but not the Senate amendment, allows professional development activities to include the forming of partnerships with institutions of higher education to establish school-based teacher training programs for prospective teachers and novices to work with experienced teachers and faculty.

The Senate recedes.

471. The House bill, but not the Senate amendment, allows professional development activities to include instruction in the use of technology.

The Senate recedes.

472. The House bill, but not the Senate amendment, allows professional development activities to include the creation of career ladder programs for paraprofessionals.

The Senate recedes.

473. The House bill, but not the Senate amendment, allows professional development activities to include instruction in ways to teach special needs children.

The Senate recedes.

474. The House bill, but not the Senate amendment, allows professional development activities to include instruction in gender-equitable education methods, techniques, and practices.

The Senate recedes.

475. The House bill, but not the Senate amendment, allows professional development activities to include joint professional development activities between Title I and Head Start, Even Start, or State-run preschool program personnel.

The Senate recedes.

476. The House bill, but not the Senate amendment, allows professional development activities to include instruction in experiential-based teaching methods such as service learning.

The Senate recedes.

477. The House bill, but not the Senate amendment, requires programs to be designed so that all school staff in schoolwide program schools can participate in the professional development activities, or so that all staff in targeted assistance schools may participate in professional development activities if their participation will result in better addressing the needs of Title I students.

The Senate recedes with an amendment changing the heading to "PROGRAM PARTICIPATION" and inserting "Local educational agencies are encouraged to design program so that".

478. The House bill, but not the Senate amendment, allows parents to participate in professional development activities if the school determines that such participation would be appropriate.

The Senate recedes.

479. The House bill, but not the Senate amendment, allows LEAs to form consortia to carry out the professional development activities under this part, and lists the entities with whom LEAs can form consortia.

The Senate recedes.

480. The House bill, but not the Senate amendment, allows knowledge of effective teaching strategies gained through Title I professional development activities to be shared with teachers who are not participating in schoolwide or targeted assistance programs.

The Senate recedes with an amendment striking "schoolwide or".

481. The House bill, but not the Senate amendment, allows Title I funds to be combined with Goals 2000 and Eisenhower funds to carry out professional development activities.

The Senate recedes.

482. The House bill, but not the Senate amendment, requires the SEA to review LEA plans to determine if the plans meet certain criteria, and requires the SEA to provide assistance to LEAs whose plans do not meet the criteria to enable them to make progress toward the inclusion of the elements in the LEA professional development plan.

The Senate recedes with an amendment striking "recent" in (B); inserting "where possible" after "learning"; striking "are of sufficient intensity and duration to" and inserting "are designed to"; changing "are part of the everyday activities of the school and creates and orientation toward" to "contribute to"; and changing "assist" to "provide technical assistance".

483. The House bill requires the LEA to meet certain requirements with regard to instructional aides; the Senate amendment requires schoolwide programs to meet requirements with regard to instructional aides.

The Senate recedes.

484. The House bill refers to "high school diploma, a General Education Development certificate"; the Senate amendment refers to "secondary school diploma or its recognized equivalent".

The Senate recedes.

485. The House bill refers to "earn either"; the Senate amendment refers to "earn such diploma or equivalent".

The Senate recedes.

486. The House bill refers to "employment"; the Senate amendment refers to "such employment".

The Senate recedes.

487. The House bill allows a LEA to employ an instructional aide who does not have a high school diploma or GED if the aide possesses proficiency in a language other than English that is needed to enhance the participation of children in Title I programs; the Senate amendment allows schoolwide program schools to employ an instructional aide who does not have a secondary diploma or its equivalent if the aide possesses proficiency in a language other than English that is needed to enhance the participation of children in Title I programs.

The Senate recedes.

488. The House bill requires the LEA to meet certain requirements with regard to instructional aides; the Senate amendment, under the targeted assistance program provisions, requires a program which employs instructional aides to ensure that such aides meet certain requirements.

The Senate recedes.

489. The House bill refers to "high school diploma, a General Education Development certificate"; the Senate amendment refers to "secondary school diploma or its recognized equivalent".

The Senate recedes.

490. The House bill refers to "earn either"; the Senate amendment refers to "earn such diploma or equivalent".

The Senate recedes.

491. The House bill refers to "employment"; the Senate amendment refers to "such employment".

The Senate recedes.

492. The House bill allows an LEA to employ an instructional aide who does not have a high school diploma or GED if the aide possesses proficiency in a language other than English that is needed to enhance the participation of children in Title I programs; the Senate amendment allows targeted assistance programs, to employ an instructional aide who does not have a secondary diploma or its equivalent if the aide possesses

proficiency in a language other than English that is needed to enhance the participation of children in Title I programs.

The Senate recedes.

493. The House bill, but not the Senate amendment, requires LEAs receiving Title I assistance to include instructional aides in professional development activities.

The Senate recedes with an amendment inserting "where feasible".

*Participation of Children Enrolled in Private Schools*

494. Both the House bill and Senate amendment provide for services to eligible children enrolled in private schools with a minor drafting difference and paragraph headings in the Senate amendment.

Legislative counsel.

495. The House bill, but not the Senate amendment, lists examples of special services to eligible children enrolled in private school such as dual enrollment, educational radio and television, computer equipment and materials, other technology, and mobile educational services and equipment.

The Senate recedes.

496. The Senate amendment, but not the House bill, provides that local educational agencies shall consult with private school officials during the design and development of the agency's program, lists examples of topics for consultation, provides for the timing of such consultation and that the consultation shall include a discussion of service delivery mechanisms.

The House recedes.

497. The Senate amendment, but not the House bill, includes paragraph headings in the subsection dealing with public control of funds.

Legislative counsel.

498. The House bill refers to property purchased with "such funds"; the Senate amendment refers to property purchased with "those funds".

Legislative counsel.

499. The Senate amendment, but not the House bill, provides that private school officials provide local educational agencies with the verifiable documentation necessary to determine proportionate allocations.

The Senate recedes with an amendment inserting a new (E) in subsection (b) "what is the size and scope of the equitable services to be provided to the eligible private school children, and what is the proportionate allocation amount under subsection (a)(4) on which such services will be based."

500. Both the House bill and the Senate amendment require the Secretary to arrange for services for private school children of an LEA fails to provide such services but the reference to the requirements to do this are different.

Legislative counsel.

501. The Senate amendment, but not the House bill, includes a paragraph heading.

Legislative counsel.

502. Both the House bill and Senate amendment provide for payments for capital expenses with almost identical language, but the Senate amendment also has paragraph headings, and refers to funds "under this subsection" and applications "for assistance under this subsection" in (2)(B).

Legislative counsel.

503. The House bill refers to "the term capital expenses is limited to"; the Senate amendment refers to "the term capital expenses means" and includes a paragraph heading.

Legislative counsel.

504. The House bill refers to "including but not limited to"; the Senate amendment refers to "including".

Legislative counsel.

#### Fiscal Requirements

505. While both bills have the same provisions regarding maintenance of fiscal effort in general, the House bill also requires maintenance of such effort specifically with respect to professional development activities. The House recedes.

506. The Senate amendment, but not the House bill, includes a paragraph heading entitled "In General".

507. The Senate amendment, but not the House bill, includes a paragraph heading entitled "Special Rule".

Legislative counsel.

508. The House bill refers to "its compliance"; the Senate amendment refers to "such agency's compliance".

Legislative counsel.

509. The Senate amendment, but not the House bill, includes a paragraph heading entitled "In General".

Legislative counsel.

510. The House bill refers to "its schools"; the Senate amendment refers to "such agency's schools".

Legislative counsel.

511. The House bill refers to "only if it will use"; the Senate amendment refers to "only if such agency will use".

Legislative counsel.

512. The House bill establishes new tests to determine whether local educational agencies meet the comparability of services requirement. Expenditures per pupil from State and local funds, and "basic" instructional salaries (excluding salary differentials based on years of employment) must be at least as high in schools participating in title I as for nonparticipating schools. The Senate bill contains comparability tests similar to those of current law.

The House recedes.

513. Both bills allow for exclusion of unpredictable changes in enrollment or personnel assignments occurring after the beginning of a school year in applying comparability standards. The Senate bill also states that such changes shall not be included in comparability determinations.

Legislative counsel.

The Senate recedes.

514. The Senate amendment, but not the House bill, includes a paragraph heading entitled "Procedures and Records".

Legislative counsel.

515.

*Explanatory Note:* Both bills have similar language requiring local educational agencies to establish procedures and maintain records as necessary for comparability determinations, excluding local educational agencies with only 1 school per grade span, and allowing for exclusion of State and local funds for bilingual education and the excess costs of serving children with disabilities.

516. The House bill refers to "its compliance"; the Senate amendment refers to "such agency's compliance".

Legislative counsel.

517. The Senate amendment, but not the House bill, includes a paragraph heading entitled "Inapplicability".

Legislative counsel.

518. The Senate amendment, but not the House bill, include a paragraph heading entitled "Compliance".

Legislative counsel.

519. The House bill refers to "excess costs"; the Senate amendment refers to "excessive costs" and "as determined by the local educational agency".

The House recedes with an amendment striking "excessive" and inserting "excess".

#### Grants for the Outlying Areas and the Secretary of the Interior

520. Both bills provide for the reservation of 1% of title I, part A funds for grants to outlying areas plus the Department of the Interior (for Native American pupils).

Legislative counsel.

521. The Senate amendment, but not the House bill, includes a paragraph heading entitled "In General".

Legislative counsel.

522. The Senate amendment, but not the House bill, provides that all funds reserved for the outlying areas (including the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and—until adoption of its Compact of Free Association—Palau) be distributed in accordance with a competition conducted by the Pacific Regional Educational Laboratory in Hawaii. Five percent of the total amount reserved for the outlying areas may be used to pay the Laboratory's administrative costs. Currently, the Secretary of Education determines the distribution of funds among the outlying areas, except for a portion of these funds (equal to the share allocated in FY 1989 to the Federated States of Micronesia and the Republic of the Marshall Islands) that is distributed through a competition conducted by the Pacific Regional Educational Laboratory.

The House recedes with an amendment that allows the Freely Associated State to be eligible to compete for competitive grants under Title I, authorizes \$5 million as a block grant to PREL for the Freely Associated States to compete for these funds, and allows the Freely Associated States to compete for all discretionary grants under this Act.

#### Allocations to States

523. The House bill provides that an annual share of title I, part A appropriations equal to the FY 1994 amount be allocated according to the basic and concentration grant formulas (sec. 1124 and 1124A). Any additional appropriations will be allocated under the new, targeted grants formula (sec. 1125).

The Senate recedes with an amendment that provides that in Fiscal Year 1995, Title I funds will be distributed under the same formula as in current law. In Fiscal Year 1996, funds would be distributed under a modified form of the House formula. Appropriations equal to the Fiscal Year 1995 level would be distributed under current law, except that local educational agencies with 2 percent poverty or less would receive no funds. Funds in excess of the Fiscal Year 1995 level would be distributed under a new targeted, weighted formula. Where poor children living in high concentrations of poverty receive more funds, a local educational agency with poverty rates of 5 percent would receive no funds.

A small state minimum that is a compromise between the House and Senate provisions applies to both parts of the formula and to the formula for distributing Fiscal Year 1995 funds. Additionally, the formula provides for the use of updated poverty estimates prepared by the Bureau of the Census. Poverty estimates would be updated in Fiscal Year 1997 (school year 1997-98) for counties, and updated in Fiscal Year 1999 for local educational agencies.

The conference agreement also includes a separate authorization of \$200 million to provide additional funds to improve Title I schools that distributes funds to all states based on a measure of their effort and equity.

524. If appropriations are insufficient to pay the full authorized amounts for part A,

then grants will be ratably reduced to the level of available appropriations. However, no local educational agency is to receive less than 85% of its previous year grant (if any) under the basic and targeted grant formulas. There is no hold harmless for concentration grants.

The Senate recedes with an amendment on all of the notes concerning the title I formula (notes 504-557).

#### Basic Grants to Local Educational Agencies

525. Except for Puerto Rico, the maximum basic grant for a local educational agency is equal to the number of poor and other children counted in the formula multiplied by 40% of the State average expenditure per pupil, with bounds of 80% and 120% of the national average applied to the latter.

526. While all basic grants will be calculated by the U.S. Department of Education using data on poor school age children compiled by the Census Bureau, the House bill authorizes State education agencies to use alternative population data (i.e., other than the data on poor school age children compiled by the Census Bureau) to allocate basic grants among the State's smaller local educational agencies only (those serving areas with a total population of 20,000 or fewer persons). Local educational agencies dissatisfied with such determinations by their State education agency may appeal them to the U.S. Secretary of Education.

527. In cases where the Census Bureau has not compiled data on poor school age children for local educational agencies (applies at this point to 8 counties in California), basic grants will be calculated by the U.S. Department of Education by county, with the State education agency responsible for suballocation to local educational agencies in such counties.

528. The basic grant to Puerto Rico is calculated in the same manner as those for local educational agencies in the 50 States plus the District of Columbia, except that the minimum expenditure factor for the States plus D.C. (.4 times 80% of the national average expenditure per pupil) is further multiplied by the ratio of the Puerto Rico average expenditure per pupil divided by the lowest average expenditure per pupil for any of the States plus D.C.

529. In order to be eligible for a basic grant, a local educational agency must have at least 10 poor and other children counted in the formula.

530. The children to be counted for basic grants under the House bill include children aged 5-17 years: (a) in poor families; (b) in families receiving Aid to Families with Dependent Children (AFDC) payments above the poverty level for a family of 4; plus (c) in institutions for the neglected and delinquent, in foster homes, or attending community day programs, and who are not counted for State agency grants for the neglected and delinquent (title I, part D, subpart 3). Except for those in community day programs, these are the same groups of children counted under current law.

531. In making basic grants, the Secretary will use data on the number of school age children in poor families compiled for local educational agencies by the Census Bureau. In cases where such data have not been compiled for local educational agencies, the Secretary will use county aggregate data.

532. In cases where 2 or more counties are completely contained within 1 local education agency (e.g., New York City, Hawaii, and possibly Williamsburg/James City county in Virginia), then each county portion of the local educational agency will be treated

as if it were a separate local educational agency for the calculation of basic grants.

533. If data on the number of poor school age children have been updated by the Census Bureau for local educational agencies, then the updated data must be used by the Secretary of Education to calculate basic grants.

534. Data on children in families receiving Aid to Families with Dependent Children payments above the poverty income level for a family of 4 will be obtained annually for local educational agencies from the Department of Health and Human Services.

535. The Census Bureau shall prepare special updates of the number of children in poor families for local educational agencies when requested by the Secretary of Education.

536. In general, the minimum basic grant for all local educational agencies is the lesser of: (a) 0.25% of total grants; (b) 150% of the State's previous year basic grant; or (c) 150% of the national average basic grant per child counted in the basic grant formula in the previous year, multiplied by the State's total number of such children for that year. In addition, for fiscal years 1995 and 1996 only, no State may be reduced below the level of its FY 1993 basic grant as a result of applying the caps in (b) and (c) of the preceding sentence.

#### Concentration Grants to Local Educational Agencies

537. Local educational agencies are eligible for concentration grants under the House bill if their number of children counted for basic grants in the previous fiscal year exceeds either: (a) 6,500 such children; or (b) 15% of their total school age population. Concentration grant eligibility is limited to the 50 States plus the District of Columbia.

538. The State minimum concentration grant is the lesser of: (a) 0.25% of total grants; (b) 150% of the State's previous year concentration grant; or (c) 150% of the national average concentration grant per child counted for such grants for the year for which grants are being calculated, multiplied by the State's total number of children counted for concentration grants in that year. There is also an "absolute" minimum State concentration grant of \$250,000. (This has been increased to \$340,000 under appropriations legislation of recent years.)

539. The number of children counted in allocating concentration grants is the total number counted for basic grants in the preceding fiscal year if a local educational agency meets the 15% criterion of eligibility, but only the number counted for basic grants in excess of 6,500 children if only the 6,500 criterion is met. This number of children is multiplied by an expenditure factor of the local educational agency's maximum basic grant for the same (not previous) year, divided by its number of children counted for basic grants (which is simply equal to the basic grant expenditure factor for the same fiscal year).

540. While all concentration grants will initially be calculated by the U.S. Department of Education using data on poor school age children compiled by the Census Bureau, the House bill authorizes State education agencies to use alternative population data (i.e., other than the data on poor school age children compiled by the Census Bureau) to allocate concentration grants among the State's smaller local educational agencies (those serving areas with a total population of 20,000 or fewer persons). Local educational agencies dissatisfied with such determinations by their State education agency may

appeal them to the U.S. Secretary of Education.

541. In cases where the Census Bureau has not compiled data on poor school age children for local educational agencies (applies at this point to 8 counties in California), concentration grants will be calculated by the U.S. Department of Education by county, with the State education agency responsible for suballocation to local educational agencies in such counties.

542. Of the total amount appropriated for basic and concentration grants, 10% is reserved for concentration grants.

543. Grants will be ratably reduced, subject to the State minimum, if total appropriations are less than maximum authorized concentration grants.

#### Targeted Grants to Local Educational Agencies

544. To be eligible for targeted formula grants under the House bill, the number of children counted for basic grants in a local educational agency must be at least 10.

545. The maximum targeted grant for a local educational agency is its weighted count of children multiplied by its basic grant expenditure factor.

546. The number of children counted for targeted grants is the greater of two modified counts of the children counted for basic grants for a local educational agency. Local educational agency counts of poor and other formula children are weighted according to two scales, one based on the aggregate number of such children, and the other scale based on the percentage that basic grant formula children represent of a local educational agency's total school age population. For each LEA, the greater of the two weighted pupil counts—that based on numbers and that based on percentages—is used to calculate grants. The weights applied to different numbers of basic grant formula children for a local educational agency vary from 1 to 3, in 5 steps. The steps and weights are as follows:

#### PUPIL WEIGHTS ASSIGNED TO LOCAL EDUCATIONAL AGENCIES FOR TARGETED GRANTS UNDER THE HOUSE VERSION OF H.R. 6

School age child poverty rate for the local educational agency	Number of poor and other formula in the local educational agency	Weight assigned to poor and other formula pupils in the local educational agency
0-14.265%	0-575	1.0
14.266-21.553	576-1,870	1.5
21.554-29.223	1,871-6,910	2.0
29.224-36.538	6,911-42,000	2.5
36.539 or more	more than 42,000	3.0

Each step on each of the two scales contains local educational agencies with approximately one-fifth of all school and age children. The weights are applied stepwise—i.e., each weight is applied only to the share of formula children in a county (local educational agency) falling within the indicated number or percentage range.

547. While all targeted grants will initially be calculated by the U.S. Department of Education using data on poor school age children compiled by the Census Bureau, the House bill authorizes State education agencies to use alternative population data (i.e., other than the data on poor school age children compiled by the Census Bureau) to allocate targeted grants among each State's smaller local educational agencies (those serving areas with a total population of 20,000 or fewer persons). Local educational agencies dissatisfied with such determinations by their State education agency may appeal them to the U.S. Secretary of Education.

548. In cases where the Census Bureau has not compiled data on poor school age children for local educational agencies (applies at this point to 8 counties in California), targeted grants will be calculated by the U.S. Department of Education by county, with the State education agency responsible for suballocation to local educational agencies in such counties.

549. The State minimum targeted grant is the lesser of: (a) 0.25% of all grants; (b) 150% of the national average targeted grant per (unweighted) child counted in the targeted grant formula in the year for which grants are being calculated, multiplied by the State's total number of such (unweighted) children for that year.

#### Special Allocation Procedures.

550. If a local educational agency does not provide educational services to neglected or delinquent children who are counted in determining part A grants to that agency, the State education agency may reallocate part A grants based upon such children.

551. State education agencies may reallocate part A grants as appropriate when multiple local educational agencies serve the same area, or an agency provides educational services to children residing in a different local educational agency.

552. State education agencies may reallocate part A grants not used by the local educational agencies to which they were originally allocated.

#### Carryover and Waiver

553. In general, a local educational agency may carry over no more than 15% of its part A grant for use in the fiscal year after the grant was received (does not apply to local educational agencies receiving less than \$50,000 per year). This limitation may be waived by a State education agency, but no more than once every three years for any particular local educational agency.

#### Allocations to States

554. The Senate bill provides that if appropriations are insufficient to pay maximum authorized part A grants, then allocations will be ratably reduced, subject to a State level hold harmless of 100% of FY 1994 basic plus concentration grants for FY 1995, 90% of previous year grants for FY 1996, and 85% of previous year grants for FY 1997 and beyond. There is also a hold harmless for local educational agencies (see sec. 1124).

#### Grants to States

555. State total grants will be calculated on the basis of local educational agencies if necessary population data are deemed to be satisfactory by the Secretary of Education. Otherwise, State total grants will be calculated on a county basis. In either case, State total grants will be allocated to local educational agencies through a separate process (in sec. 1124). [Note: All allocation estimates under the Senate bill have thus far used county, not local educational agency, population data to calculate State total grants.]

556. Maximum part A grants under the Senate bill are equal to a weighted count of children (by county or local educational agency) multiplied by the State expenditure factor, further multiplied by the State effort factor, and finally multiplied by the State equalization factor. The State expenditure factor is 40% of the State average expenditure per pupil, with bounds on the latter of 85% and 115% of the national average expenditure per pupil (rather than 80% and 120% under current law and the House bill).

557. The State effort factor under the Senate bill is based on a comparison of the State

average expenditure per pupil (as used in the title I expenditure factor) divided by the State personal income per capita, compared to the national average expenditure per pupil divided by the national personal income per capita. The resulting amount would be 1.0 for a State with effort at the national average. The State effort factors are adjusted to be no less than 0.95 nor more than 1.05. The effort factor for Puerto Rico is equal to the lowest factor for any of the States plus D.C. (0.95).

558. The equalization factor under the Senate bill is based upon a measure of variation in average expenditures per pupil among each State's local educational agencies called the coefficient of variation. This is a measure of the average disparity in expenditures per pupil among the local educational agencies of a State, and is expressed as a percentage of the State average expenditure per pupil. In the coefficient of variation calculations under the Senate bill, the expenditures per pupil are weighted to account for differences in the enrollment level of different local educational agencies, with an extra weight (1.4 vs. 1.0) applied to estimated counts of children from poor families. The equalization factor is equal to 1 minus the coefficient of variation, so the lower a State's coefficient of variation, the higher its equalization factor. There are no limits on the equalization factor itself, although there are limits on the effects of applying it for the first 3 years (see below).

559. If a State meets the expenditure disparity standard for equalization under the Impact Aid program regulations (currently Alaska, Kansas, and New Mexico), its coefficient of variation used to calculate the equalization factor is adjusted to be no more than .10.

560. Application of the equalization factor may not cause a State's total allocation to change by more than  $\pm 2\%$  for FY 1995,  $\pm 4\%$  for FY 1996, or  $\pm 6\%$  for FY 1997 compared to what the State would receive if there were no equalization factor. For FY 1997 and beyond, there is no limit on the effect of the equalization factor.

561. For Puerto Rico, the expenditure factor is the minimum applied to the 50 States plus D.C. (.4 times 85% of the national average expenditure per pupil) further multiplied by the ratio of the Puerto Rico average expenditure per pupil divided by the lowest average expenditure per pupil for any of the States plus D.C.

562. The minimum number of poor and neglected/delinquent children in a local educational agency or county to be eligible for a grant is 10.

563. The children to be counted for grants under the Senate bill include children aged 5-17 years: (a) in poor families; plus (b) in institutions for the neglected and delinquent, or in foster homes, and who are not counted for State agency grants for the neglected and delinquent (title I, part E, subpart 3). [The House bill also includes children in families receiving Aid to Families with Dependent Children payments above the poverty level for a family of four, plus children in community day programs.]

564. The number of children counted for grants under the Senate bill is the greater of two modified counts of the poor and neglected/delinquent school age children in a county (or, if the Secretary determines that satisfactory data are available, local educational agency). Counts of poor and other formula children are weighted according to two scales, one based on the aggregate number of such children, and the other scale based on the percentage that such children

represent of the total school age population. For each LEA, the greater of the two weighted pupil counts—that based on numbers and that based on percentages—is used to calculate grants. The weights applied to different numbers of poor and other formula children vary from 1 to 1.4 on the percentage scale, and from 1 to 1.3 on the numbers scale, as follows:

WEIGHTS APPLIED TO FORMULA CHILD COUNTS FOR COUNTIES IN CALCULATING STATE ALLOCATIONS UNDER SENATE VERSION OF H.R. 6

County weight for poor and other formula children	Number range (i.e., number of poor and other formula children)	Percentage range (formula children as a percentage of total school age population)
1.000	0-1,917	0-12.2
1.075	1,918-5,938	
1.100		12.3-17.7
1.150	5,939-20,199	
1.200		17.8-22.8
1.225	20,200-77,999	
1.300	78,000+	22.9-29.7
1.400		29.8+

If grants are tabulated by local educational agency rather than by county, then the number and percentage ranges used for within-state grants under the Senate bill (see below) would be substituted for those above. The weights are applied stepwise—i.e., each weight is applied only to the share of formula children in a county (local educational agency) falling within the indicated number or percentage range. The maximum weighting factor for Puerto Rico is 1.15.

565. The State minimum grant under the Senate bill is the greater of: (a) 0.25% of total grants; or (b) 125% of the amount the State would receive if there were no minimum grant provision.

566. In general, no State may receive for FY 1995 (only) a grant that exceeds 115% of the amount the State would receive under the title I, chapter 1, part A formulas of current law, at the FY 1995 appropriations level.

Within State Allocations

567. After State grants are determined under the provisions of sec. 1123 of the Senate bill, the State totals are allocated to local educational agencies through a separate process. There is no direct connection between county or local educational agency calculations used to set State totals and the amount allocated to a county or local educational agency in this second stage of allocations.

A local educational agency is eligible for a grant only if its number of poor and neglected/delinquent children is greater than both 10 children and 5% of its total school age population.

568. If appropriations are not sufficient to pay maximum authorized grants, allocations to local educational agencies will be ratably reduced, subject to a hold harmless of 85% of the agency's previous year grant. The hold harmless is effective only for FY 1995 for local educational agencies that do not meet the 10 child or 5% thresholds, and only for FY 1995 and 1996 for other local educational agencies.

569. Under the Senate bill, up to 2% of State grants may be reserved by the State education agency for grants to schools in local educational agencies not eligible for grants. Such schools must serve attendance areas with a child poverty rate of at least 25% or the average percentage for the State, and are to be served in rank order, based on their poverty rate. Such funds must be used by a recipient local educational agency only to serve the designated school attendance

areas. The amount of these funds, combined with any hold harmless amounts the local educational agency receives, may not exceed the State average grant per poor and neglected/delinquent child counted in the formula or, for FY 1995, the grant received under title I, chapter 1, part A. Local educational agencies may not modify their pupil assignment policies in order to increase a school's percentage of poor children and therefore its eligibility for this assistance.

570. As with the formula for determining State total grants, the children counted in making grants to local educational agencies include school age children in poor families plus neglected, delinquent, and foster children not counted under title I, part E, subpart 3 (State agency program for the neglected and delinquent).

571. In making allocations to local educational agencies, a State may use one of three data sources: (a) data compiled by the Census Bureau; (b) the sum of (all) school age children in families receiving Aid to Families with Dependent Children (AFDC) payments plus one-third of the number of limited English proficient school age children; or (c) data using other poverty criteria, approved by the Secretary, and equivalent in size to the census count of children from poor families plus neglected/delinquent children.

572. In allocating funds among a State's local educational agencies that meet the 5%/10 child threshold, each agency's count of poor and other formula children is to be reduced by an amount equal to 1% of the LEA's total school-age population.

573. In addition to the 1% absorption factor, the Senate bill provides for allocation within States among eligible local educational agencies on the basis of weighted counts of poor and other children counted in the intrastate formula. The number and percentage ranges and steps are the same as those used for national allocation of targeted grants under the House bill, except that the maximum weights are 1.6 for percentages and 1.4 for numbers of children in the local educational agency counted under the formula. These weights are also applied stepwise—i.e., each weight is applied only to the share of formula children in a local educational agency falling within the indicated number or percentage range. The greater of the two weighted counts for each local educational agency—that based on percentages and that based on numbers—is used to allocate part A funds within States.

574. State education agencies may reallocate part A grants as appropriate when multiple local educational agencies serve the same area, or an agency provides educational services to children residing in a different local educational agency.

575. If a local educational agency does not provide educational services to neglected or delinquent children who are counted in determining part A grants to that agency, the State education agency may reallocate part A grants based upon such children.

576. The Senate bill provides that a local educational agency may reserve up to 2% of its part A grant to serve children in schools not otherwise eligible, as long as the school attendance areas are within 2 rank orders of the lowest poverty eligible school.

Presidential Awards Program

577. The House bill, but not the Senate amendment, allows the Secretary to develop a Presidential awards program that will recognize the person or corporation producing the best education game of the year.

The Senate recedes with an amendment making the Presidential Awards program an

allowable activity under the Fund for Innovation in Education.

TITLE I—PART E (HOUSE)/PART F (SENATE)

578. The part heading in the House bill, but not the Senate amendment, reflects the House bill's inclusion of section 1503, "Innovative elementary school transition projects."

Legislative counsel.

579. Technical difference. (The Senate amendment, but not the House bill, adds the word "assisted" after "programs.")

Legislative counsel.

580. The House bill refers to the "ongoing Chapter 1 Longitudinal Study under subsection (b) of this section." The Senate amendment refers to the "ongoing Chapter 1 Longitudinal Study under subsection (c) of this section."

Legislative counsel.

581. Technical difference. (The Senate amendment, but not the House bill, adds subsection (a)(2) with the heading, "EXAMINATION.")

Legislative counsel.

582. The Senate amendment, but not the House bill, adds the word "challenging" before "State content standards."

The House recedes.

584. The House bill refers to the "specific purposes set out in section 1001(d) of this title to achieve this goal, including—" The Senate amendment refers to the "purpose set forth in section 1001(d) to achieve the goal described in paragraph (1), including—"

Legislative counsel.

585. The House bill refers to "high standards for all children" while the Senate amendment refers to "challenging State content standards and challenging State student performance standards for all children served under this title..."

The House recedes.

586. Regarding the goal that students meet standards, the House states, "...schools to help children reach them" while the Senate amendment states, "...schools to help children reach such standards."

Legislative counsel.

587. The Senate amendment, but not the House bill, adds the words "served under this title" after "providing children."

The House recedes.

588. Technical difference. (The Senate amendment, but not the House bill, adds the word "such" after "instructional time that.")

Legislative counsel.

589. The House bill refers to "access of all children to effective instructional strategies and challenging academic content" while the Senate amendment refers to "access for all children served under this title to effective instructional strategies and challenging academic content."

The House recedes.

590. The House bill, but not the Senate amendment, includes the requirement that the Assessment examine the use of "any of the voluntary model State opportunity-to-learn standards that may have been implemented and whether they are useful in improving learning."

The Senate recedes with the following amendment:

"(v) the utilization and usefulness of opportunity to learn standards or strategies in improving learning in schools receiving assistance under this part:"

591. Technical difference. (The Senate amendment, but not the House bill, adds the word "provided" after "coordinating services.")

Legislative counsel.

592. Technical difference. (The Senate amendment, but not the House bill, adds the words "and pupil" after "other educational")

Legislative counsel.

593. The Senate amendment, but not the House bill, adds the words "of children served under this title" after "parents."

The House recedes.

594. The House bill, but not the Senate amendment, adds the words, "including the provision of family literacy services."

The Senate recedes with an amendment striking "including" and inserting "such as"

595. Technical difference. (The Senate amendment, but not the House bill, begins subsection (a)(3) with the heading, "NAEP INFORMATION.")

Legislative counsel.

596. The Senate amendment directs the Secretary, where feasible, to use NAEP information in carrying out the national assessment. The House bill directs the Secretary to use information from a variety of sources, including NAEP, state evaluations and research studies.

The Senate recedes.

597. The House bill states that "The Secretary shall submit a biennial report summarizing the cumulative findings to date of the assessment to the President and the appropriate committees of Congress. The Senate amendment states, "INTERIM AND FINAL REPORTS.—The Secretary shall submit an interim report summarizing the preliminary findings of the assessment to the President and the appropriate committees of the Congress and a final report of the findings of the assessment by January 1, 1998."

The House recedes.

598. The Senate amendment, but not the House bill, organizes the subsection into two paragraphs, and entitles the first one "IN GENERAL."

Legislative counsel.

599. The House bill, but not the Senate amendment, directs the Secretary to report no later than December 31, 1997 to the House Committee on Education and Labor and to the Senate Committee on Labor and Human Resources on how schoolwide programs are meeting the needs of children from migratory families.

The Senate recedes.

600. The Senate amendment, but not the House bill, directs the Secretary, at a minimum to collect trend information on the effect of Title I programs. This data is to complement the data collected under subsections (a) and (c).

The House recedes.

601. The House bill refers to subsection (c) as "NATIONAL EVALUATION OF TITLE I" while the Senate amendment refers to the subsection as "NATIONAL LONGITUDINAL STUDY."

The Senate recedes.

602. Technical difference. (The Senate amendment, but not the House bill, adds the word "assisted" after "program.")

Legislative counsel.

603. Technical difference. (The Senate amendment, but not the House bill, adds the word "the" before "Congress.")

Legislative counsel.

604. The Senate amendment, but not the House bill, adds the words "short- and long-term" before "effectiveness."

The House recedes.

605. Technical difference. (The Senate amendment, but not the House bill, adds the word "to" before "provide.")

Legislative counsel.

606. The Senate amendment, but not the House bill, includes, "... in enabling stu-

dents to meet high State content standards and State student performance standards, graduate from secondary school, and make successful transitions to postsecondary education and work" following "program's effectiveness."

The House recedes.

607. The House bill states "tracking cohorts of students" while the Senate amendment states "that tracks cohorts of students within schools of differing poverty concentrations..."

The House recedes.

608. The Senate amendment, but not the House bill, requires that the evaluation be consistent with measuring the achievement of students relative to high content standards and State student performance standards.

The Senate recedes.

609. The Senate amendment, but not the House bill, requires that, if sufficient funds are available, the evaluation shall provide information on students with disabilities.

The House recedes.

610. The House bill refers to the "information from this evaluation." The Senate amendment refers to the "results of the evaluation described in paragraph (1)..."

Legislative counsel.

611. Technical difference. (The House bill states "this" after "data from" while the Senate amendment states "such" after "data from.")

Legislative counsel.

612. The House bill refers to "that assessment," after "frequently as" while the Senate amendment states "reports are made under subsection (a)(4)" following "frequently as."

Legislative counsel.

613. The House bill, but not the Senate amendment, imposes specific requirements regarding the assessment of progress of children in the early grades, for the National Assessment and the National Evaluation. Specifically, the House bill states that (1) students in grades 1, kindergarten and pre-kindergarten shall not be assessed on the basis of outcome measures such as content and performance standards; (2) that assessments of children in grade 2 shall utilize matrix sampling and be performance-based; and (3) that "any data regarding children in grade 2 shall—(A) be collected at multiple points in time; (B) not be used to stigmatize, label or place any child; and (C) be collected in multiple domains."

The House recedes. It is the intent of the Managers that, when the Secretary conducts the National Assessment of Title I and the National Evaluation of Title I, that the progress of students in grade 1, kindergarten, and prekindergarten shall not be assessed on the basis of outcome measures such as content and performance standards. When conducting the Assessment and the Evaluation, it is the Managers intent that any testing of children in grade 2 utilize matrix sampling and be performance based. Also, the Managers intend that any data collected regarding children in grade 2 shall be collected at multiple points in time, not be used to stigmatize, label, or place any child, and be collected in multiple domains.

614. The Senate amendment, but not the House bill, imposes a more general requirement that the Secretary use developmentally appropriate measures to assess student performance and progress.

The House recedes.

615. The House bill, but not the Senate amendment, requires the Secretary, through OERI, to conduct a study to identify and describe common barriers to effective parental

involvement in the education of participating children; and successful local policies and programs which improve parental involvement and the performance of participating children. The House bill requires that the study be completed by December 31, 1995 and be reported to Congressional oversight committees, and that findings relative to successful local policies be disseminated to LEAs.

The Senate recedes with an amendment establishing the completion date of the study as December 31, 1996.

616. The Senate amendment, but not the House bill, requires the Secretary to conduct a study to (1) determine whether a feasible method exists for producing reliable estimates, between decennial census counts, of the number of school-aged children living in poverty by State in each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and (2) use such a method, if one exists, to provide the Congress with estimates.

The Senate recedes.

617. Technical difference. (The Senate amendment, but not the House bill, begins subsection (a)(1) with the heading, "IN GENERAL.—")

Legislative counsel.

618. The House bill refers to "funds appropriated for any fiscal year under section 1002(7)(B)" while the Senate amendment refers to "funds appropriated for any fiscal year under section 1002(g)(2)."

Legislative counsel.

619. The House bill, but not the Senate amendment, includes "public/private partnerships involving business and industry organizations" as eligible bodies.

The Senate recedes.

620. Technical difference. (The House bill uses the word "bodies" after "consortia of such" while the Senate amendment uses the word "entities" after "consortia of such.")

Legislative counsel.

621. The House bill refers to "challenging state standards." The Senate amendment refers to "challenging State content standards" and "challenging State student performance standards." The House bill refers to providing children an opportunity to reach "high" standards. The Senate amendment refers to providing them an opportunity to meet "challenging State content" and "challenging State student performance standards."

The House recedes.

622. Technical difference. (The Senate amendment refers to "children;" and the House bill refers to "them.")

Legislative counsel.

623. The Senate amendment, but not the House bill, adds "coordinated pupil services programs" as a promising strategy.

The Senate recedes.

624. The House bill, but not the Senate amendment, includes "such as mentoring programs" after "other social services."

The Senate recedes.

625. Technical difference. (The Senate amendment, but not the House bill, hyphenates "limited-English.")

Legislative counsel.

626. The Senate amendment, but not the House bill, adds "programs which are especially effective in recruiting, inducting and retaining highly qualified teachers for service in schools with low student achievement" as a promising strategy.

The House recedes.

627. The House bill, but not the Senate amendment, includes "secondary schools" among the entities with which partnerships are developed.

The House recedes.

628. Technical difference. (The Senate amendment, but not the House bill, begins subsection (a)(2) with the heading, "EVALUATION.—")

Legislative counsel.

629. Technical difference. (The House bill refers to "funds appropriated for any fiscal year under section 1002(7)(B)" while the Senate amendment refers to "funds appropriated for any fiscal year under section 1002(g)(2).")

Legislative counsel.

630. Technical difference. (The House bill refers to "schools supported under this title" while the Senate amendment refers to "schools assisted under this title.")

Legislative counsel.

631. The House bill, but not the Senate amendment, includes a third section under this Part, "Innovative elementary school transition projects," to "provide financial assistance to support innovative transition projects in elementary schools."

The Senate recedes with an amendment merging the House and Senate transition provisions.

613. The House bill states that "from 70 percent of the amount reserved to carry out this section (not less than \$10,000,000 of the amount appropriated under section 1002(7)(B)), the Secretary shall make grants to local educational agencies for the purpose of supporting projects, for children from low-income families who previously attended Head Start, Even Start, or similar preschool programs, which provide educational and other services in kindergarten and early elementary grades."

614. The House bill states that "From 30 percent of the amount reserved under subsection (a), the Secretary shall make grants to public and private nonprofit agencies, institutions, and organizations" to provide technical assistance and training in the implementation of model transition and instructional approaches.

#### Federal Regulations

615. The Senate amendment requires the Secretary to convene regional meetings prior to publishing proposed regulations. The House bill requires the Secretary to obtain advice and recommendations, which may be obtained through such mechanisms as regional meetings and electronic exchanges of information.

The Senate recedes with an amendment allowing the Secretary to conduct regional meetings. While the Managers are not requiring the Department to conduct regional meetings, the Managers believe that the information gained through such meetings greatly assists the Department as it drafts regulations. The Managers encourage the Department to obtain such information and feedback through other mechanisms such as working through the various national education organizations to conduct regional meetings.

616. The House bill requires the Secretary to establish a negotiated rulemaking process. The Senate amendment requires a modified negotiated rulemaking process as a demonstration.

The Senate recedes.

617. The House bill, but not the Senate amendment, specifies four issues that must be addressed in negotiated rulemaking.

The Senate recedes with an amendment limiting the mandatory issues to be negotiated to schoolwide programs and standards and assessments. Secretary may add other issues.

618. The Senate amendment requires the Secretary to prepare draft regulations for

negotiated rulemaking. The House bill requires the Secretary to prepare a draft of proposed policy options.

The Senate recedes.

619. The House bill, but not the Senate amendment, requires the Secretary to submit draft policy options to representatives participating in negotiated rulemaking not less than 45 days prior to the first meeting.

The Senate recedes with an amendment changing "45 days" to "15 days."

620. The House bill, but not the Senate amendment, specifies that final regulations shall be issued not later than the 240-day period required by section 437 (current section 431) of the General Education Provisions Act. [Note: If House provision is retained, need to conform the citation and the number of days to the final GEPA provision in Title II of the bill.]

The Senate recedes with an amendment requiring that the regulatory negotiations process be conducted in a timely manner to ensure that final regulations are issued by the Secretary no later than July 1, 1995.

621. The House bill requires that the negotiated rulemaking process follow the Negotiated Rulemaking Act of 1990. The Senate amendment requires the process to follow the guidance provided by the Administrative Conference of the United States in Recommendation 82-4. (Both waive application of the Federal Advisory Committee Act.)

The Senate recedes.

622. The House bill, but not the Senate amendment, prohibits the Secretary from expending funds available for Federal evaluations, demonstrations, and elementary school transition projects until final regulations under Part A are published.

The House recedes.

622A. The House bill refers to "under this part" and "a particular"; the Senate amendment refers to "under this title" and "any 1".

The Senate recedes.

#### Coordination of Federal, State, and Local Administration

623. The House bill, but not the Senate amendment, requires the Secretary to prepare and distribute a program assistance manual.

The Senate recedes.

624. The House bill, but not the Senate amendment, requires the Secretary to respond with written guidance not more than 90 days after receiving any written request from a State or local educational agency regarding a policy, question, or interpretation under Title I.

The Senate recedes.

625. The House bill, but not the Senate amendment, requires each State educational agency to create a committee of practitioners to advise the State in carrying out its responsibilities under Title I, including reviewing, prior to publication, any proposed or final State rule or regulation.

The Senate recedes with an amendment changing "counselors" to "Pupil services personnel".

626. The House bill authorizes a State educational agency to reserve for performance of its duties under Title I the greater of: (1) 1% of its total Title I allocation (excluding Even Start and any funds received for Federal evaluation, demonstration, or transition projects); or (2) \$375,000. The Senate amendment authorizes a State educational agency to reserve for FYs 1995 and 1996 the greater of: (1) 1% of its total Title I allocation (excluding Even Start and any funds received for Federal evaluation of demonstration); or (2) \$425,000. Beginning in FY 1997, the Secretary may authorize a State educational

agency to reserve: (1) not more than 1.5% nor less than 1% of such funds; of (2) not more than \$565,000 nor less than \$425,000 (whichever is greater) based on State reports of administrative expenditures under Title I and the Secretary's studies of State educational agency, local educational agency, and school-level administrative expenses under new section 14010(b) of the ESEA.

The Senate recedes with an amendment establishing the small state minimum grant at \$400,000 for small states and \$25,000 for outlying areas.

627. The Senate amendment authorizes a State to reserve funds to carry out its duties with respect to school improvement. The House bill (Section 1002(6)) contains a specific authorization of appropriations for school improvement.

The House recedes with an amendment establishing a .5 percent set-aside for program improvement and a minimum program improvement grant of \$200,000.

628. The Senate amendment, but not the House bill, requires each State educational agency to submit annually a report to the Secretary on its use of funds for State administration of activities under Title I.

HR with an amendment moving this provision to the ESEA General Provisions title.

629. The Senate amendment, but not the House bill, includes a provision specifically requiring that funds received under Part G be used to supplement, not supplant, non-federal funds.

The Senate recedes.

#### Construction

630. The Senate amendment makes provisions prohibiting Federal mandates concerning specific instructional content of performance standards, equalized spending per pupil, and national school building standards applicable to all of Title I. The House bill (Sec. 111(f), (j), (k)) makes similar provisions apply only to section 1111 concerning State Plans. The House recedes.

#### Reservation of Funds for Territories

631. The Senate amendment, but not the House bill, separately authorizes funds to be appropriated under Part D (education of migratory children) and Part E (education of neglected and delinquent youth) for payments to the outlying areas. [Note: Under both the House bill and the Senate amendment, the outlying areas would be directly eligible (as "States") for funds under those two programs. See section 910(22) in the House bill and section 1010(25) in the Senate amendment.]

The Senate recedes.

#### Educational Opportunity Demonstration Program

632. The Senate amendment, but not the House bill, includes an Educational Opportunity Demonstration Program.

The Senate recedes.

633. The Senate amendment, but not the House bill, includes a findings and purposes section with respect to the Educational Opportunity Demonstration Program.

The Senate recedes.

634. The Senate amendment, but not the House bill, defines the terms "educational opportunity school" and "educational opportunity advisory board".

The Senate recedes.

635. The Senate amendment, but not the House bill, allows the Secretary to grant waivers to 10 LEAs for the design and operation of one or more educational opportunity schools; allows the Secretary to waive the Title IX requirements for participating LEAs for a five year period; and requires each par-

ticipating LEA to establish an educational opportunity advisory board.

The Senate recedes.

636. The Senate amendment, but not the House bill, requires each LEA desiring a waiver under this program to submit an application, and lists the required contents of the application.

The Senate recedes.

637. The Senate amendment, but not the House bill, requires the Secretary to commission a study to compare the educational and behavioral achievement of those choosing same gender classes and those choosing co-educational classes.

The Senate recedes.

639. The Senate amendment, but not the House bill, contains a provision which states that nothing in this part shall be construed to affect the availability under Title IX of remedies to overcome the effects of past discrimination on the basis of sex.

The Senate recedes.

The conferees intend to allow maximum flexibility for the use of funds under this Act to encourage schools to think of new ways to use technology to expand the learning day in the home, increase parental involvement with their children's education, and provide readily accessible professional development for teachers and staff.

#### TITLE I

##### Part B—Even Start Literacy Programs

1. Minor drafting differences.

Legislative counsel.

2. The House bill indicates the program shall assist children and adults to achieve challenging State standards. The Senate amendment refers to challenging State "content" and "student performance" standards.

The House recedes.

3. Minor drafting differences. The House bill, but not the Senate amendment, includes "other purposes" in the reservation section and refers to 5 percent of the amount appropriated under section 1002(b) "of this title."

Legislative counsel.

4. The House bill requires the Secretary to reserve "not less than" 5 percent to serve special populations and the Senate bill refers to "not more than" 5 percent.

The House recedes with an amendment requiring the Secretary to reserve 5 percent.

5. The House bill, but not the Senate amendment, provides for an Even Start demonstration grant for a family literacy program in a prison housing women and their preschool age children if the amount of funds available for special populations exceeds \$4.6 million.

The Senate recedes with an amendment to require grants on a competitive basis.

6. Minor drafting differences.

Legislative counsel.

7. Minor drafting differences. The House bill places the reference to eligible organizations after, rather than before the list of provided activities; the Senate amendment refers to grants or contracts "with eligible organizations."

Legislative counsel.

8. The Senate amendment, but not the House bill, includes a provision allowing the Secretary to reserve \$1 million or less in years in which the Even Start appropriation exceeds the previous year's appropriation, to award competitive grants to States to enable them to plan and implement statewide family literacy initiatives to coordinate existing Federal, State and local literacy resources consistent with the purposes of the Even Start Program.

The House recedes with an amendment to require the coordination and integration to

include, but not be limited to, several federal programs.

9. The Senate amendment, but not the House bill, requires a non-Federal match by the State in order to participate in the new statewide family literacy initiatives grant program.

The House recedes.

10. Technical differences. The Senate amendment, but not the House bill, includes funds for the new statewide family literacy initiative among those that are deducted before Even Start funds are allocated to the States.

The House recedes.

11. Minor drafting differences.

Legislative counsel.

12. The House bill guarantees each State a minimum annual grant of \$250,000. The Senate amendment provides a guarantee of that amount or 1/2 of 1% of the amount available for States, whichever is greater.

The House recedes.

13. Minor drafting differences. The House bill refers to "or other public or private nonprofit organization"; the Senate amendment refers to "or a public or private nonprofit organization." The Senate amendment, but not the House bill, places the definitions in alphabetical order.

The House recedes with an amendment providing that "a public agency" is "not a local educational agency. It is the intent of the conferees that Even Start grantees should not dissolve partnerships (created by LEAs and other entities in order to apply for Even Start projects) during their grant period unless there is good cause."

14. The Senate amendment, but not the House bill, explicitly includes "the Home and School Institute, Inc." in the definition of eligible organizations.

The House recedes.

15. Minor draft differences.

Legislative counsel.

16. Minor drafting differences.

Legislative counsel.

17. The Senate amendment titles this section "Minimum" and allow each State to award one subgrant in an amount less than \$75,000 if it is of sufficient size, scope, and quality to be effective and if less than \$75,000 is left over after awarding other grants of \$75,000 or more.

The House recedes.

18. Minor drafting difference. The House bill refers to carrying out an "Even Start" program; the Senate amendment only refers to "a program."

Legislative counsel.

19. The House bill refers to the cost of programs serving children from "birth through age 7." The Senate amendment does not include the age notation.

The Senate recedes.

20. The House bill indicates the program is to help parents become full partners in the education of their children and to assist children in reaching their full potential as learners. The Senate amendment states "to help parents obtain educational skills" as an additional feature of a family-centered education program.

The Senate recedes.

21. Minor drafting differences. The House bill in (1)(A)(i) refers to "that" program; the Senate amendment in (1)(A)(i) refers to "such" program.

Legislative counsel.

22. The House bill, but not the Senate amendment, requires that matching funds be obtained from any source other than title I funds.

The House recedes with an amendment providing that the matching funds may come

from any source including Federal funds under this Act.

23. The Senate amendment, but not the House bill, titles this provision "WAIVER." There are minor wording differences.

Legislative counsel.

24. The Senate amendment, but not the House bill, titles this provision, "PROHIBITION." The two provisions are identical in purpose but worded differently.

Legislative counsel.

25. The House bill, but not the Senate amendment refers to each "Even Start" program. There are minor wording differences.

Legislative counsel.

26. The Senate amendment, but not the House bill, includes the phrase, "including teenage parents."

The House recedes.

27. The house bill includes "referral to necessary counseling" among the services that can be provided. The Senate amendment includes "referral to necessary pupil services." There are other minor wording differences.

The Senate recedes.

28. The House bill, but not the Senate amendment, includes "and related services."

The Senate recedes.

29. The House bill requires that programs be designed to include the provisions of "support services, when unavailable from other sources." The Senate amendment refers to "pupil services (when such pupil services are unavailable from other sources.)"

The Senate recedes.

30. The Senate amendment, but not the House bill, includes the phrase "in the activities assisted under this part."

The House recedes.

31. Minor wording differences.

Legislative counsel.

32. The House bill includes the phrase "empower parents to support the educational growth of their children." The Senate amendment provides "training of parents to support . . ."

The Senate recedes.

33. The Senate amendment, but not the House bill, requires programs to include "qualified personnel to develop, administer, and implement" the Even Start program.

The Senate recedes.

34. The House bill requires "the provision of some program services, either instructional or enrichment, or both during the summer months." The Senate amendment requires "the provision of some instructional or enrichment services during the summer months."

The Senate recedes.

35. Minor wording differences.

Legislative counsel.

36. The Senate amendment, but not the House bill, requires each program to "serve those families most in need of the activities and services provided by" Even Start.

The House recedes.

37. The Senate amendment, but not the House bill, requires each program to "provide services . . . to individuals with special needs, such as individuals with limited-English proficiency and individuals with disabilities."

The Senate recedes.

38. The Senate amendment, but not the House bill, requires each program to "encourage eligible participants to remain in the program for a time sufficient to meet the program's purpose."

The Senate recedes.

39. Drafting differences. The two provisions are identical in substance, but contain minor wording differences.

Legislative counsel.

40. The Senate amendment, but not the House bill, titles this provision "SPECIAL RULE."

Legislative counsel.

41. The House bill, but not the Senate amendment, includes a section on "REQUIRED DOCUMENTATION," which requires applications to include documentation that the eligible entity has the qualified personnel necessary to operate the program and provided necessary training.

The Senate recedes.

42. The Senate amendment, but not the House bill includes a heading, "IN GENERAL."

Legislative counsel.

43. The House bill calls for an application to "include a plan of operation for the program." The Senate amendment states "each such application shall."

The Senate recedes.

44. The Senate amendment, but not the House bill, includes the words, "to be served" in referring to "participants".

Legislative counsel.

45. The House bill refers to "other" eligible organizations. The Senate amendment refers to eligible organizations.

Legislative counsel.

46. The House bill, but not the Senate amendment, requires applicants to describe how their plans are consistent with State and local plans, if any, under Goals 2000, and with State and local plans under sections 1111 and 1112 of ESEA.

The Senate recedes with an amendment providing for a description of how the plan is integrated with other programs under this Act, Goals 2000: Educate America Act, or other Acts.

47. The House bill, but not the Senate amendment, allows the plan to be submitted as part of a consolidated application under section 9302.

The Senate recedes.

48. The Senate amendment, but not the House bill, requires each plan to remain in effect for the duration of the eligible entity's participation in the Even Start program and that it be periodically reviewed and revised as necessary.

The House recedes.

49. Minor wording and drafting differences except the Senate makes reference to subsection (b), which does not relate to the review panel (the intended reference is probably paragraph (2)).

Legislative counsel.

50. The Senate amendment, but not the House bill, includes, as a factor to be considered in selecting grantees, "other need-related indicators", such as the fact that the program will include a high percentage of children who reside in a school attendance area that is eligible for programs under Part A of title I.

The House recedes.

51. The House bill, but not the Senate amendment, specifically states that the three-year age range for which services must be provided "may begin at birth."

The Senate recedes.

52. The House bill refers to an applicant's ability to provide "additional funding." The Senate amendment refers to "the remaining cost."

Legislative counsel.

53. Minor wording differences. The Senate amendment titles this section "PRIORITY."

Legislative counsel.

54. The House bill provides a priority to programs in areas that have a high percentage or a large number of children and families in need of Even Start services. The Sen-

ate amendment gives priority to programs that target services to families whose children reside in attendance areas of schools eligible for schoolwide programs under Part A.

The Senate recedes.

55. Minor drafting and wording differences. The Senate amendment includes the headings "IN GENERAL," "STARTUP PERIOD," AND "CONTINUING ELIGIBILITY" for the paragraphs under the subsection.

Legislative counsel.

56. Minor wording differences. The Senate amendment titles this paragraph, "INSUFFICIENT PROGRESS."

Legislative counsel.

57. Minor wording differences. The Senate amendment titles this paragraph, "GRANT RENEWAL."

Legislative counsel.

58. The House bill permits an eligible entity to receive a second subgrant. The Senate amendment does not limit the number of subgrants an eligible entity may receive but limits the total period of assistance to 8 years.

The House recedes.

59. Minor wording and technical differences.

Legislative counsel.

60. The Senate amendment, but not the House bill, contains a section entitled, "CONSTRUCTION," which provides that nothing in the Even Start statute may be read to prohibit recipients of funds under the Even Start program from serving students participating in Even Start simultaneously with students with similar educational needs in the same settings, where appropriate.

The House recedes.

Part C—Education of Migratory Children

Purpose

61. Identical provisions, except the Senate amendment modifies "challenging standards" with the words, "State content" and "State student performance."

The House recedes.

Program Authorized

62. Identical provisions, but the Senate amendment uses the heading, "in general."

Legislative counsel.

State Allocations

63. Identical provisions, but the House bill uses the term, "entitled," when the Senator uses the term, "eligible."

The Senate recedes.

64. Identical provisions, but the Senate amendment uses the heading, "in general."

Legislative Counsel.

65. Similar provisions, except the House bill allows the Secretary to reduce funds to a state if they "exceed the amount required", whereas the Senate allows it if "such amount is not needed."

The Senate recedes.

66. Identical provisions, except the House bill applies the consortium requirement to States with grants of \$1m or less, whereas the Senate amendment applies it to States with grants of \$500,000 or less.

The Senate recedes.

67. Similar provisions, with technical differences in the wording.

Legislative Counsel.

68. The House bill requires the Secretary to develop a more accurate methods for determining the summer (which may include intersession) child count and reimbursement level; the Senate amendment requires the Secretary to adjust the overall child count by factoring in summer programs, intersession programs, designs, and programs which operate through stop-over centers.

The House recedes with these amendments; rewrite paragraph (2) as follows, "develop

and implement a procedure for more accurately reflecting cost factors for different types of summer programs and for intersession programs;" add a new number (3) as follows, "adjust the full-time equivalent number of migratory children who reside in each State to take into account the special needs of those children participating in special programs provided under this part that operate during the summer and intersession periods;" renumber number (3) accordingly.

69. The House bill, but not the Senate amendment requires the Secretary to consider alternatives for adjusting the formula for a child whose education has been interrupted.

The Senate recedes.

#### State Applications

70. Identical provisions, except only the House bill extends the paragraph to require that migratory status be recorded on State student collection data.

The House recedes.

71. The Senate amendment, but not the House bill, includes "all" before migratory students.

The House recedes.

72. The Senate amendment, but not the House bill, applies the terms "State content" and "State student" to "standards."

The House recedes.

73. Identical provisions, except the Senate amendment adds the phrase, "and the amount of funds that such agencies will provide to identical schools."

The Senate recedes.

74. The House bill, but not the Senate amendment, requires budgetary and other information.

The Senate recedes.

75. Identical provisions, but the Senate amendment places it within "authorized activities", section 1406(b)(1)(C).

Legislative Counsel.

76. Technical conforming differences. (The section numbers cited in both bills refer to the following provisions: schoolwides, targeted assistance, assignment of personnel, private school children, supplement not supplant, comparability of services, and General Provisions.)

Legislative Counsel.

77. Identical, except the House bill uses the phrase, "lasting a school year", when the Senate amendment uses, the phrase, "of one school year in duration."

Legislative Counsel.

78. The House bill, but not the Senate amendment, requires the preschool needs be met.

The Senate recedes.

79. The Senate amendment requires that, "to the extent feasible", programs provide advocacy and outreach, professional development, family literacy, integration of technology, transition activities to postsecondary education or employment. (For comparable House bill provision, see note #87.)

The House recedes.

80. Technical conforming difference.

Legislative Counsel.

81. Identical provisions, except the Senate amendment adds the phrases, "State content standards" and "student performance standards."

The House recedes.

82. The House bill, but not the Senate amendment, extends the "continuation of services" to a third category—secondary schools students to be served in credit accrual programs.

The Senate recedes.

#### Comprehensive Needs Assessment

83. The House bill, but not the Senate amendment, requires that the plan be inte-

grated with any plan submitted under Title III of Goals 2000 and with other plans under the School-to-Work Act and the Perkins Act.

The Senate recedes with an amendment striking "(A) and (B)" of paragraph (1) and replacing with "is integrated with other programs under this Act, the Goals 2000 Act, and other acts, as appropriate, consistent with section 14706", which is the standard Goals coordination language.

84. The House bill, but not the Senate amendment, requires that the plan be integrated with other State plans, where such plans exist, if no plan is being developed under the Goals 2000.

The House recedes.

85. Identical provisions, except the Senate amendment applies the phrases, "State content" and "challenging State student" to "standards."

The House recedes.

86. Identical provisions, except the Senate amendment makes the requirement applicable to only "part A" of Title VII.

Legislative Counsel

87. Similar provisions, except the provisions in the Senate amendment appear under the section describing use of funds (see note #79) and paragraphs (C) and (D) of each bill are slightly modified.

The House recedes.

88. The Senate amendment, but not the House bill, requires that the comprehensive plan, with modifications, remain in effect for the duration of the State's participation.

The House recedes.

89. The House bill, but not the Senate amendment, allows the State to satisfy the requirements of the section through a reference to the applicable sections under a plan approved under Goals 2000.

The House recedes.

90. Technical conforming difference.

Legislative Counsel

91. The Senate amendment, but not the House bill notes that nothing in this part shall be construed to prohibit an LEA from serving migrant students with other students.

The House recedes.

92. The House bill requires that the "authorized activities" (described in subsection 1306(b)) shall no longer apply if funds are used under a "schoolwide plan"; the Senate amendment requires that funds shall continue to be used to address the needs of children which result from the effects of a migratory lifestyle and which are not otherwise provided, notwithstanding the requirements of section 1114, ("schoolwide" programs.)

The House recedes.

Coordination of Activities

The House recedes.

93. Identical provision, except the House bill uses the phrase, "State and local educational agencies of their educational programs", when the Senate amendment uses the term "such agencies."

Legislative Counsel.

94. The House bill permits awards under this subsection only to nonprofit entities. The Senate amendment permits awards to for-profit, as well as nonprofit, entities.

The Senate recedes.

95. The House bill, but not the Senate amendment authorizes grants for up to 5 years.

The House recedes.

96. The House bill requires the Secretary to convene a panel to assess alternative methods by which student records may be transferred and students may be counted; to report to the Congress on the panel's findings; and provides the Secretary the authority to

contract for services. The Senate amendment provides the Secretary authority to extend MSRTS to January 1996 and requires the Secretary to report to Congress on how student records are transferred.

The Senate recedes with an amendment, replacing the language of the House bill (Section 1308b) as follows:

"The Secretary shall solicit information on how student records are transferred from one school to another and shall solicit recommendations on whether or not new procedures and technologies for record transfer should be employed to better meet the needs of the migrant population. The Secretary shall also seek recommendations on the most effective means for determining the number of students or full-time equivalent students in each State for the purpose of allocating funds under this part.

"Not later than April 30, 1995, the Secretary shall report to the Senate Committee on Labor and Human Resources and to the House Committee on Education and Labor, its findings and recommendations, and shall include in this report, recommendations for interim measures that may be taken to ensure continuity of services in this program. The Secretary shall assist States in developing effective methods for the transfer of student records and in determining students or full-time equivalent students in each state should such interim measures be required."

97. Similar provisions, but the House bill requires the Secretary to reserve "up to \$6m", when the Senate bill requires that the Secretary reserve, "not more than \$6m."

Legislative Counsel.

98. The House bill uses the term "competitive" when the Senate amendment uses the term, "incentive" in describing the grants. The House recedes. The House bill requires, the Senate amendment allows, the Secretary to reserve \$1.5m for consortium grants.

The Senate recedes with an amendment striking "\$100,000" and inserting "\$250,000."

99. The House bill, but not the Senate amendment, requires that a minimum of 10 grants be awarded to States with allocations of less than \$1m.

The Senate recedes.

100. The House bill, but not the Senate amendment, authorizes the Secretary to award a grant of up to \$3m for a distance learning program.

The House recedes.

#### Definitions

101. Technical difference in wording. The House bill places the definitions in a separate section. The Senate amendment places the definitions in subsection (a) of section 1402, "Program authorized."

Legislative Counsel.

102. The House bill uses the term, "parent or spouse", when the Senate amendment uses, "parent or guardian". The House recedes with an amendment to add spouse. The House makes eligibility based on up to "24" months after a move, when the Senate amendment makes it based on "48" months.

The House recedes with an amendment to insert "spouse" after "guardian" and establishing the period for eligibility under the migrant Education program at 36 months.

103. The Senate amendment, but not the House bill, extends the definition of "migrant" to one who resides in a school district of a specified size and migrates a distance of at least 20 miles.

The House recedes.

104. The House bill, but not the Senate amendment, makes "36", rather than "24" preceding months applicable in fiscal year 1995.

The House recedes.

105. The Senate amendment, but not the House bill, defines the term, "stop-over center" which would be used in the determination of eligible children in a state.

The Senate recedes.

106. The Senate amendment, but not the House bill, defines the term, "fishing activity."

The Senate recedes.

Section 1310(2)(A) provides that migrant students are eligible to receive services under this part for up to three years from the date of their last migration. The conference agreement reduces from six years to three years the length of time a migrant child is eligible for such services. The reduction in eligibility will concentrate the limited migrant education resources on those children who most recently migrated thereby enhancing the quality and depth of migrant education services per eligible child. It should be clear that this reduction in eligibility is not intended to jeopardize the level of funding provided for migrant education, and that the need for increased funding provided for migrant education, and that the need for increased funding is still great. The Managers recognize that the educational deficiencies caused by migration are significant and that supplemental services, including the facilitation of parental involvement, provided to migrant students under this part are critical.

Part D—Prevention and Intervention Programs for Youth Who Are Neglected, Delinquent, or at Risk of Dropping Out

*Findings; Purpose; Program Authorized*

107. The House bill entitles this part "Part D—Prevention and Intervention Services for Delinquent Youth and Youth at Risk of Dropping Out." The Senate amendment refers to this part as "Part E—Education for Neglected and Delinquent Youth."

The Senate recedes with an amendment providing a new heading for this part— "PART D—PREVENTION AND INTERVENTION PROGRAMS FOR YOUTH WHO ARE NEGLECTED, DELINQUENT, AND AT RISK OF DROPPING OUT."

108. The House bill, but not the Senate amendment, includes "FINDINGS" in the title and lists nine findings related to academic achievement, dropping out, and delinquency.

The Senate recedes.

109. The House bill, but not the Senate amendment, refers to improving services to children in "local and State" institutions for delinquent children. The Senate amendment, but not the House bill, includes as one of the purposes of this part, the provision of services to neglected children.

The Senate recedes with an amendment adding "neglected or" to the statement of purpose.

110. The Senate amendment, but not the House bill refers to challenging State "content standards."

The House recedes.

111. Minor drafting/technical differences.

Legislative Counsel.

112. The House bill, but not the Senate amendment, includes, as one of the purposes of this part, dropout prevention and programs to support youth returning from institutions.

The Senate recedes.

113. The House bill provides that SEAs are to make subgrants to State agencies and local educational agencies. The Senate amendment permits subgrants only to State agencies.

The Senate recedes.

114. The House bill, but not the Senate amendment, provides that funds are to be used to establish or improve programs for "youth at risk of dropping out of school before graduation." The Senate amendment, but not the House bill, provides that funds are to be used to establish or improve programs for "neglected children."

The Senate recedes with an amendment adding "neglected or" to the program authorization section.

115. The House bill, but not the Senate amendment, includes a Section on "Payments for Programs Under this Part." This section provides for allocations to States under subpart 1 which are to use to make subgrants to State agencies. The section further provides that State shall retain, for purposes of Subpart 2, funds generated throughout the State under Part A which are based on youth residing in local correctional facilities or attending community day programs for delinquent children.

The Senate recedes.

116. The House bill, but not the Senate amendment, provides that any funds left over after making grants to State agencies under Subpart 1 be used for . . . (Something appears to be missing in subsection (c); its intention is to say that left over funds may be used for Subpart 2, Local Agency Programs).

The Senate recedes.

117. The House bill, but not the Senate amendment, refers to subpart 1—State Agency Programs.

The Senate recedes.

118. The House bill titles this section "Sec. 1403—Amount of Allocation to State." The Senate amendment refers to this section as "Sec. 1503—Allocation of Funds." The Senate amendment includes the subtitle "(a) Subgrants to State Agencies" and titles paragraph (1) "In General." The House bill refers to subsection "(a) State Allocation."

Legislative Counsel.

119. The House bill refers to "Each State educational agency." The Senate amendment refers to "Each State agency described in section 1502 (other than an agency in the Commonwealth of Puerto Rico)." The House bill indicates that such agencies are "eligible to receive under this part." The Senate amendment indicates that such agencies are eligible to "receive a subgrant under this part."

120. The House bill bases the allocation of funds on the "number of delinquent children in state correctional facilities serving youth under the age of 21." The Senate amendment bases the allocation on the "number of neglected or delinquent children described in section 1502."

The House recedes.

121. Both the House bill and the Senate amendment require children who are in education programs in institutions for children to be enrolled for 20 hours per week in such programs. The House amendment refers to "education programs operated or supported by facilities serving youth." The Senate bill refers to "education programs in institutions for neglected or delinquent children or in community day programs for neglected and delinquent children."

The House recedes.

122. The House bill counts the number of "delinquent" children who are enrolled for "10 hours a week in adult facilities serving youth." The Senate amendment counts "neglected or delinquent" children and who are enrolled for at least 15 hours per week in education programs in adult correctional institutions."

The House recedes.

123. The Senate amendment, but not the House bill, includes a "SPECIAL RULE" providing that the number of neglected or delinquent children determined under paragraph (1) is to be determined by a date or dates set by the Secretary, except that no state agency is required to determine the number of such children on a specific date set by the Secretary. The Senate amendment also provides that the number of children shall be adjusted to reflect the relative length of such agency's annual programs.

The House recedes with an amendment changing "date or dates" to "deadline".

124. The House bill refers to the "amount for the grant"; the Senate amendment refers to the "amount of the subgrant."

Legislative Counsel.

18A. The House bill refers to "32 percent"; the Senate amendment refers to "34 percent".

125. The Senate amendment, but not the House bill, includes a subsection (c), providing for "Ratable Reductions in Case of Insufficient Appropriations," which requires the secretary to ratably reduce the amount paid to all agencies if the amount appropriated is insufficient to pay the full amount for which all agencies are eligible under subsections (a) and (b).

The House recedes.

126. The Senate amendment, but not the House bill, includes a subsection (d), "PAYMENTS TO STATE EDUCATIONAL AGENCIES," which requires the secretary to pay to each SEA the total amount needed to make subgrants to State agencies in the State. This subsection further permits each SEA to retain a portion of such total amount for State administration.

The Senate recedes.

127. The Senate amendment, but not the House bill, contains a section on the "State Reallocation of Funds," which permits the SEA to reallocate any amount that is not needed by a State agency to other State agencies that need additional funds to carry-out programs. The SEA is to determine the additional amount to be provided to each State agency.

The House recedes with an amendment changing "State agencies" to "other eligible State agencies".

128. The House bill titles this Section "State Plan." The Senate amendment refers to this section as "State Plan and State Agency Applications." There are technical/drafting differences.

The House recedes.

129. The House bill refers to a plan for "meeting the needs of delinquent youth and children at risk of dropping out." The Senate amendment refers to a plan for "meeting the needs of neglected and delinquent children" and specifies that such plan shall be revised as updated "as needed to satisfy the requirements of this section."

The House recedes with an amendment striking "and children" and adding "and where applicable, youth at risk of dropping out."

130. The House bill, but not the Senate amendment, requires that the State's plan under this part be integrated with the State's plan, either approved or being developed, under Title III of Goals 2000 or is integrated with other State plans under ESEA if the State does not have an approved plan under Goals and is not developing such a plan. The House bill further requires that such plan "satisfy the requirements of this section."

The Senate recedes with an amendment providing that the state plan is integrated

with other programs under this Act, the Goals 2000: Educate America Act, or other Acts, as appropriate.

131. The House bill, but not the Senate amendment, permits the State plan submitted under paragraph (a)(1)(A)(i) to be submitted as an amendment to the State's plan under title III of Goals 2000.

The House recedes.

132. The Senate amendment titles this provision "CONTENTS" and indicates "each such State plan shall . . ." The House bill indicates Each such plan shall "also."

Legislative Counsel.

133. The House bill refers to "State-established" program goals. The Senate amendment refers to program goals . . . "established by the State."

Legislative Counsel.

134. Technical wording difference. The House bill refers to "they would have if they." The Senate amendment states "as such children would have if such children."

Legislative Counsel.

135. The House bill, but not the Senate amendment, requires each State plan to describe the manner in which the State agency will make subgrants.

The House recedes.

136. The House refers to Sec. 1408 (this citation should be 1411) while the Senate amendment refers to Sec. 1509, both of which are evaluation provisions.

Legislative Counsel.

137. The House bill, but not the Senate amendment, requires the State plan to contain assurances that its State agencies comply with all applicable statutory and regulatory requirements.

The Senate recedes.

138. The Senate amendment, but not the House bill, contains a paragraph entitled, "DURATION OF THE PLAN," providing that the State's plan stays in effect for the length of the State's participation in the program and is to be "reviewed and revised . . . as necessary . . ."

The House recedes.

139. The House bill, but not the Senate amendment, requires a State plan to "provide such other information as the Secretary may reasonably require."

The Senate recedes.

140. Technical/drafting differences.

Legislative Counsel.

141. The Senate amendment addresses the issue of agency eligibility in a separate section.

Legislative Counsel.

142. The House bill says "if it". The Senate bill refers to "if such agency."

Legislative Counsel.

143. The House bill provides that a State agency is eligible if it provides "free public education for children in institutions for delinquent children." The Senate amendment provides that State agencies are eligible if they provide "free public education for children in institutions for neglected or delinquent children, children attending community day programs for neglected and delinquent children, or children in adult correctional institutions."

The House recedes.

144. The House bill refers to "A State agency" and the Senate amendment refers to "Any State agency."

Legislative Counsel.

145. The House bill refers to the State plan under Part A "of this title." The Senate amendment refers to the State plan under Part A.

Legislative Counsel.

146. The House bill, but not the Senate amendment, requires agency applications to

provide assurances that priority will be given, when serving youth in adult correctional facilities, to those youth who are likely to complete incarceration within a two-year period.

The Senate recedes.

147. The Senate amendment, but not the House bill, refers to annual updates to be provided "to the State educational agency."

Legislative Counsel.

148. The House bill refers to Sec. 1408 (should be sec. 1411), the Senate amendment to Sec. 1509, their respective sections on evaluations. The House bill requires agencies to describe how the results of the most recent evaluation "are used" to plan and improve the program. The Senate amendment asks for a description of how the results "were used."

Legislative Counsel.

149. Technical differences. The House refers to data showing that the "agency" while the Senate amendment refers to the "State agency." The House bill requires the agency to show how it has maintained "fiscal effort required of a local educational agency." The Senate amendment requires the agency to include data showing it "has maintained fiscal effort as if such agency were a local educational agency." Different section citations.

Legislative Counsel.

150. The House bill requires an applicant agency to describe how its program will be coordinated with other appropriate State and Federal programs and lists JTPA, vocational education, State and local dropout prevention programs, and special education as examples. The Senate amendment refers to coordination with "State and Federal programs administered by the State agency" but does not mention any particular programs.

The Senate recedes with an amendment making the list of programs illustrative rather than mandatory.

151. The House bill refers to the professional development of "teachers and other instructional and administrative personnel." The Senate amendment refers to "teachers and other staff."

The House recedes.

152. The House bill refers to "an institution." The Senate amendment refers to "the institution."

Legislative Counsel.

153. The House bill, but not the Senate amendment, requires the agency to indicate how it will endeavor to coordinate with business for training and mentoring for participating youth.

The Senate recedes.

154. The House bill, but not the Senate amendment, requires agencies to describe how they will assist in locating alternative programs through which students can continue their education if they are to return to school.

The Senate recedes with an amendment changing an item description in the State application to an assurance.

155. The House bill, but not the Senate amendment, requires agencies to describe how they will work with parents to secure their assistance in improving the educational achievement of their children and preventing their further involvement in delinquent activities.

The Senate recedes with an amendment changing an item description in the state application to an assurance.

156. The House bill, but not the Senate amendment, requires agencies to describe how they will work with special education

youth in order to meet an existing IEP and to include an assurance that they will notify the youth's local school (if they intend to return to school) if the agency determines, during their time in the facility, that the youth is in need of special education services.

The Senate recedes with an amendment changing an item description in the state application to an assurance.

157. The House bill, but not the Senate amendment, requires agencies to describe how they will work with youth who have dropped out of school before entering the facility to re-enter school once they leave the facility to provide the youth with the skills necessary to gain employment, continue their education, or achieve a high school equivalency certificate if the youth does not intend to return to school.

The Senate recedes with an amendment changing an item description in the state application to an assurance.

158. The House bill, but not the Senate amendment, requires agencies to provide assurances that teachers and other qualified staff are also trained to work with children with disabilities and other students with special needs.

The Senate recedes.

159. The House bill, but not the Senate amendment, requires agencies to describe any additional services they will provide to youth, including career counseling and assistance in securing student loans and grants.

The Senate recedes with an amendment making the listed services illustrative instead of mandatory and adds an "and" between "loans" and "grants".

160. The House bill, but not the Senate amendment, requires agencies to describe how the program will be coordinated with any programs operated under the Juvenile Justice and Delinquency Prevention Act, if applicable.

The Senate recedes with an amendment adding "Prevention" and "or other comparable programs".

161. The Senate amendment, but not the House bill, uses "IN GENERAL" twice.

The Senate recedes.

162. Different section citations. The House bill refers to section 1404(a) and the Senate amendment refers to section 1505(a).

Legislative Counsel.

163. The House bill includes "high school completion" as one of the objectives for which program funds may be used.

The Senate recedes.

164. The Senate amendment entitles this paragraph "USES."

Legislative Counsel.

165. Different section citations. The House bill refers to sec. 1406. The Senate amendment refers to sec. 1507. The House bill refers to "challenging performance standards." The Senate amendment refers to "challenging State content standards and challenging State student performance standards."

Legislative Counsel on the section reference.

The House recedes.

166. The House bill refers to "an opportunity to learn to such challenging State standards." The Senate amendment refers to "an opportunity to learn such standards."

The Senate recedes.

167. Minor technical, specifically different section citations. (However, the House citation appears to be incorrect and should probably be sec. 1121(b)).

Legislative Counsel.

168. Different section citations. (same as above note concerning House citation). The House refers to "of this title."

Legislative Counsel.

169. The Senate amendment, but not the House bill, titles this subsection "PROJECTS AUTHORIZED."

Legislative Counsel.

170. The House bill refers to a State agency that provides a free public education for children "in an institution for delinquent children." The Senate amendment refers to "children in an institution for neglected or delinquent children (other than an adult correctional institution) or attending a community-day program for such children."

The House recedes.

171. The House bill refers to "such" institution. The Senate amendment refers to "that" institution.

Legislative Counsel.

172. The House bill refers to a plan that provides for a comprehensive assessment of the education needs of all youth in the institution or program serving juveniles and for youth aged 20 and younger in adult facilities who are expected to complete incarceration within a 2-year period." The Senate amendment refers to "all individuals under the age of 21 in the institution or program."

The Senate recedes.

173. The House bill requires a plan to describe the steps the agency will take to provide all children under 21 with the opportunity to meet "challenging academic and vocational standards." The Senate amendment refers to "challenging State content standards and challenging State student performance standards."

The House recedes.

174. The House bill states such standards are to "improve the likelihood that the students will complete "high school, attain high school equivalency, or find employment after leaving the institution." The Senate amendment states that such standards are to "improve the likelihood that such children will complete secondary school and find employment after leaving the institution."

The Senate recedes.

175. The House bill refers to the provision of "mentors for secondary school students." The Senate amendment refers to "mentors for students."

The House recedes.

176. The House bill refers to "services in institutions for delinquent children." The Senate amendment refers to "services in institutions or community-day programs for neglected or delinquent children."

The House recedes.

177. The Senate amendment refers to "such teachers and personnel." The House bill refers to "them."

Legislative Counsel.

178. The Senate amendment, but not the House bill requires State agencies, beginning with the 1996-1997 school year, to use funds received under this part only for institution-wide projects, except as provided in section 1510, relating to transition services.

The Senate recedes.

179. The House bill indicates a State agency's application may be approved for a period "not to exceed 3 years." The Senate amendment provides "not more than three years."

Legislative Counsel.

180. The House requires each State agency to reserve not more than 10 percent of the amount it receives to support projects that facilitate the transition of children from State-operated institutions to local educational agencies. The Senate amendment allows State agencies to reserve up to 10 percent to facilitate the transition of children from State-operated institutions "for neglected and delinquent children into locally operated programs."

The Senate recedes.

181. The House bill requires that funds reserved for transition services be used only to provide "transitional educational services." The Senate amendment refers to "special educational services."

The Senate recedes.

182. The House bill includes "counseling and mentoring." The Senate amendment includes "pupil services and mentoring." The House bill refers to "delinquent children." The Senate amendment refers to "neglected and delinquent children."

The House recedes.

183. The Senate amendment includes a subsection entitled, "CONSTRUCTION", which provides that nothing in this section is to be construed to prohibit a school that receives funds subsection (a) from serving neglected and delinquent children simultaneously with students with similar educational needs, in the same educational settings, where appropriate.

The House recedes.

184. The House bill, but not the Senate amendment contains "Subpart 2—Local Agency Programs." From funds retained at the State level based on counts of delinquent youth within the State, the SEA is required to make subgrants to local school districts with the largest number or percentage of delinquents and dropouts in order to operate prevention and intervention programs. Local educational agencies receiving such funds would be required to form partnerships with local facilities housing students from their school district in order to ensure that the education received by youth in such facilities is comparable to that of their peers in their local schools. In addition, local schools would operate dropout prevention programs in order to raise academic achievement among youth at risk of dropping out and of involvement in delinquent activities. Local facilities would be required to provide educational assistance to those students returning to local schools. In addition, for those youth not returning to local schools, facilities would be required to assist in funding alternative education programs for such youth or to provide job training and other employment-related services. Eligible school districts meeting the criteria outlined in this section would participate in this program on a voluntary basis.

The Senate recedes with an amendment substituting new language for subsections (a) through (c) of section 1410 (Programs Operated by Local Educational Agencies), changing most of the local application requirements to assurances, making references to other Acts illustrative in relation to coordination requirements, clarifying that the listed uses of funds are "where appropriate," and the program requirements for local correctional facilities are "where feasible".

185. The House bill requires "Each State agency or local educational agency that conducts a program under subpart 1 or 2 to evaluate the program." The Senate amendment requires "Each State agency that conducts a program or project" to evaluate the program. Both bills require the evaluation to occur at least once every three years and to disaggregate data on participation by sex, and, if feasible, by race, ethnicity, or age. However, there are technical/drafting differences.

The Senate recedes.

186. The House bill refers to "high school graduation." The Senate amendment refers to "secondary school graduation."

Legislative Counsel.

187. The House bill requires the program to evaluate, "for delinquent youth" the ability

of participants to make the transition to a regular program. . . ." The Senate amendment does not limit this requirement to delinquent youth.

The House recedes

188. The House bill requests the evaluation to determine the impact of the program on the ability of participants to complete "high school (or high school equivalency requirements)." The Senate amendment refers to "the completion of secondary school."

The Senate recedes.

189. The House bill refers to "a State agency or local educational agency." The Senate amendment refers only to "a State agency."

The Senate recedes.

190. The House bill refers to "each State agency or local educational agency." The Senate amendment refers only to "each State agency."

The Senate recedes.

191. The House bill requires State agencies to "submit evaluation results to the State educational agency. The Senate amendment requires submission of "results of each evaluation under this section" to the SEA.

The Senate recedes.

192. Technical/drafting differences.

Legislative Counsel.

193. The House bill, but not the Senate amendment, includes a definition for "at risk youth."

The Senate recedes.

194. The House bill defines community-day programs for "delinquent youth." The Senate amendment defines community-day programs for "neglected or delinquent youth."

The House recedes

195. The Senate amendment, but not the House bill, defines "institution for neglected children."

The House recedes

*Assistance to Address School Dropout Problems*

1. The Senate amendment, but not the House bill, authorizes grants to educational service organizations and consortia thereof for a wide range of programs to prevent dropouts, identification of potential dropouts, and school completion programs. The Senate amendment authorizes appropriations in the amount of \$50 million for fiscal year 1995 and such sums as may be necessary for each of the 4 succeeding fiscal years.

The House recedes with an amendment (i) placing this authorization in part C of title V of ESEA, (ii) adding a provision relating to continuation assistance, (iii) clarifying that "students reentering school" includes youth returning to school from a correctional or other facility operated for delinquent youth, (iv) providing that addressing factors in a student's decision to drop out of schools includes "activities and services to designed to meet the needs of pregnant and parenting teenagers", and (v) adding "gender" to the data categories of the annual report to Congress.

TITLE II—IMPROVING TEACHING AND LEARNING  
Part A—Dwight D. Eisenhower Professional Development Program

*Findings*

The House bill refers to "reaching the National Education Goals"; the Senate amendment refers specifically to goals three and five and restates each of these goals. The Senate recedes with an amendment adding "particularly Goals 3, 4 and 5" after "National Education Goals."

The House bill refers to "achieving these goals"; the Senate amendment refers to "achieving these two goals." The Senate recedes.

The House bill, but not the Senate amendment, states the development and adoption

of high quality curriculum is a means of helping teachers provide challenging learning experiences for students. The House recedes.

The House bill, but not the Senate amendment, includes a finding which states that decisions about State or local activities to improve teaching and learning are best made by individuals closest to the classroom. The Senate recedes.

The House bill refers to "subject-specific pedagogical skills"; the Senate amendment refers to "effective subject-specific pedagogical skills." The House recedes.

The Senate amendment, but not the House bill, includes "pupil services personnel" in the team. The House recedes with an amendment clarifying that, where appropriate, professional development services may be provided to pupil services personnel and to administrators.

The Senate amendment, but not the House bill, includes teacher educators, pupil services personnel, and parents in the professional network. The House recedes with an amendment clarifying that, where appropriate, the professional network may include teacher educators, pupil services personnel, administrators, and parents.

The Senate amendment, but not the House bill, includes a sub-finding regarding how professional development can dramatically improve classroom instruction and learning when teachers, administrators, pupil services personnel, and parents are partners in the development and implementation of professional development. The House recedes with an amendment clarifying that, where appropriate, pupil services personnel, administrators, and parents can, in partnership with teachers, develop and implement professional development activities.

The Senate amendment, but not the House bill, includes a sub-finding regarding how new and innovative strategies for teaching will require time outside of teaching for teachers for instruction, practice, and collegial collaboration. The House recedes.

The House bill, but not the Senate amendment, includes a finding which states that engaging teachers in the development of high quality curricula is a powerful professional development activity that improves teaching and learning. The House recedes.

The House bill, but not the Senate amendment, includes a finding which states SEAs and LEAs need to engage teachers in the development of high quality curricula that are aligned with State or local content and performance standards in order to improve teaching and learning. The House recedes.

The House bill, but not the Senate amendment, states that curricula development is almost nonexistent in many State and local school systems. The House recedes.

The House bill states that the Federal Government has a vital role in helping States and local educational agencies in providing professional development; the Senate amendment states that the Federal Government has a vital role in helping provide professional development. The Senate recedes.

The House bill, but not the Senate amendment, states that the Federal Government has a vital role in providing assistance to State and local educational agencies in the development of high quality curricula that are aligned with State or local content and performance standards. The House recedes.

The Senate amendment, but not the House bill, includes a finding which states that professional development activities must prepare teachers, pupil services personnel, paraprofessionals, and other staff in effective

prevention and intervention strategies to alleviate the need, and assure appropriate referral for special education services and to prepare staff to work collaboratively with mainstreamed special education students consistent with each student's IEP. The House recedes with an amendment striking "effective prevention and intervention strategies to" and replaces it with "the collaborative skills needed to appropriately teach children with disabilities in the core academic subjects."; striking "consistent with the individualized education program."

This amendment clarifies that professional development activities must prepare teachers, pupil services personnel, paraprofessionals, and other staff in the collaborative skills needed to appropriately teach children with disabilities in the core academic subjects.

The Senate amendment, but not the House bill, includes a finding which states that professional development activities which are designed in cooperation with parents and that focus on the complex social, emotional, and mental health needs of children that may impede learning can help teachers, administrators, and pupil services personnel assist children in overcoming barriers to academic success. The Senate recedes.

The Senate amendment, but not the House bill, includes a finding which states that there are few incentives or sanctions operating to encourage teachers and administrators to work to prepare themselves to be more effective or to participate in professional development activities. The Senate recedes.

The Senate amendment, but not the House bill, includes a finding which outlines the importance of parental involvement and the need to provide parental training and development. The House recedes with an amendment clarifying that professional development should include methods and strategies to better prepare teachers and, where appropriate, administrators, to enable parents to participate fully and effectively in their children's education.

#### Purposes

The House bill, but not the Senate amendment, states that the purposes of this part are to provide assistance to SEAs, LEAs, and institutions of higher education with teacher education programs so that such agencies can determine how best to improve the teaching and learning of all students. The Senate recedes.

The House bill refers to "sustained and intensive high-quality professional development"; the Senate amendment refers to "high-quality professional development." The Senate recedes with an amendment to ensure that access to professional development is provided to other staff and administrators, where appropriate.

The House bill refers to "challenging State content and performance standards in the core academic subjects"; the Senate amendment refers to "challenging State content standards and challenging State student performance standards." The House recedes.

The Senate amendment, but not the House bill, states that a purpose of this part is to support the development and implementation of sustained and intensive high-quality professional development activities in the core academic subjects. The House recedes.

The House bill lists descriptive factors regarding what constitutes professional development under one purpose statement; the Senate amendment includes a separate purpose statement stating that is the purpose of this part to help ensure that teachers, ad-

ministrators, other staff, pupil services personnel, and parents have access to professional development, and then lists the descriptive factors. The House recedes with an amendment clarifying that access to professional development should be provided, where appropriate, to administrators, other staff, pupil services personnel, and parents.

The House bill refers to "challenging State and local curriculum content and student performance standards"; the Senate amendment refers to "challenging State content standards and challenging State student performance standards." The House recedes.

The House bill refers to "diverse students"; the Senate amendment refers to "diverse student populations." The House recedes.

The House bill refers to "challenging performance standards"; the Senate amendment refers to "challenging State student performance standards." The House recedes.

The House bill, but not the Senate amendment, includes an additional purpose of this part of assisting State and local educational agencies to engage teachers in the development of high quality curriculum that is aligned with State or local content and performance standards. The House recedes.

#### Authorization of Appropriations; Allocation Between Subparts

The House bill directs the Secretary to reserve 5 percent of the funds appropriated to carry out the Federal Activities; the Senate amendment directs the Secretary to reserve 5 percent of the amount appropriated to carry out the Federal Activities, but requires that 10 percent of the 5 percent be available to carry out the National Teacher Training Project. The House recedes with an amendment setting-aside 5 percent of the Secretary's reservation to be used to carry out the National Teacher Training Project.

The House bill directs the Secretary to reserve 95 percent of the funds appropriated to carry out State and Local Activities; the Senate amendment directs the Secretary to reserve 93.75 percent to carry out State and Local Activities. The House recedes with an amendment directing the Secretary to reserve 94 percent of the funds appropriated to carry out State and Local Activities.

The Senate amendment, but not the House bill, directs the Secretary to reserve 1.25 percent of the funds appropriated to carry out the Professional Development Demonstration Project. The House recedes with an amendment directing the Secretary to reserve 1 percent to carry out the Professional Development Demonstration Project, except that for each of the fiscal years 1996 through 1999, the total dollar amount for the demonstration project shall not exceed the amount received in FY 1995.

#### Subpart I—Federal Activities

##### Program Authorized

The House bill refers to "other organizations"; the Senate amendments refers to "organizations." The House recedes.

The House bill refers to "activities of national significance that will contribute"; the Senate amendment refers to "activities of national significance that the Secretary determines will contribute." The House recedes.

The House bill refers to "core academic subject areas"; the Senate amendments refers to "core academic subjects." The House recedes.

The House bill, but not the Senate amendment, includes as an authorized activity supporting the development of challenging curriculum that is aligned with State or local

content and performance standards. The House recedes.

The House bill authorizes the Secretary to evaluate activities under the subpart and subpart 2; the Senate amendment authorizes the Secretary to evaluate activities under this subpart and subpart 2 in accordance with section 10701 (the evaluation requirements under the ESEA general provisions). The House recedes.

The Senate amendment, but not the House bill, requires the Secretary to coordinate professional development programs within the Department, particularly within OERI. The House recedes with an amendment requiring the Secretary to also coordinate professional development programs with OSERS. The Senate amendment, but not the House bill, requires the Secretary to consult and coordinate with the Institute of Museum Services. The House recedes.

#### *Authorized Activities*

*Explanatory Note:* The House bill lists four activities (seed money to eligible entities; development and maintenance of a national clearinghouse for science, math, and technology; support consortia in disseminating information; and the evaluation of this subpart) which the Secretary must carry out and several optional activities; the Senate amendment only lists optional activities.

The House bill requires the Secretary to provide seed money to eligible entities; the Senate amendment allows the Secretary to provide seed money to eligible entities. The Senate recedes.

#### *Eisenhower National Clearinghouse for Mathematics and Science Education*

The House bill includes the requirements for the Mathematics and Science Education Clearinghouse as part of a section; the Senate amendment places the authorization for the Clearinghouse in a separate section. The Senate recedes.

The House bill, requires the Secretary to use funds to develop and maintain a national clearinghouse for science, mathematics, and technology education materials and requires that it be administered as an adjunct clearinghouse of the ERIC system supported by OERI; the Senate amendment allows the Secretary to establish an Eisenhower national clearinghouse for mathematics and science education; delineates the duration of the grant, the use of funds, and other requirements with regard to the clearinghouse. The House recedes with an amendment requiring the Secretary to award a grant or contract to establish the National Clearinghouse.

The House bill requires the Secretary to use funds to support consortia of educational agencies and organizations in disseminating information and providing assistance regarding curricula, teaching methods, and assessment tools that support national or State content standards in mathematics and science; the Senate amendment has a similar provision in its technical assistance program, but it is only concerned with mathematics and science. The House recedes.

The House bill requires the Secretary to use funds to evaluate programs under this subpart (Federal Activities) and Subpart 2 (State and Local Activities); the Senate amendment allows the Secretary to use funds to evaluate programs under this subpart and subpart 2 in accordance with section 10701 (the ESEA general provisions requirements regarding evaluation). The Senate recedes with an amendment clarifying that the valuations be conducted in accordance with the ESEA provisions regarding evaluations.

The House bill requires that any national clearinghouses for core academic subjects that are established be administered as adjunct clearinghouses for the ERIC system of clearinghouses supported by the Office of Educational Research and Improvement; the Senate amendment allows the Secretary to develop and maintain a national clearinghouse for each core academic subject as the Secretary determines necessary. The Senate recedes.

The House bill, but not the Senate amendment, allows the Secretary to provide grants to entities to develop high quality curricula that are aligned with voluntary national or State content standards. The House recedes.

Both the House bill and the Senate amendment allow the Secretary to use funds for professional development institutes, but the House bill allows the Secretary to "sponsor" such institutes and refers to teachers and administrators as the participants; the Senate amendment refers to teams of teachers or teachers, administrators, pupil services personnel, and other staff from individual schools as the participants. The House recedes with an amendment clarifying that the institutes may serve, where appropriate, administrators, pupil services personnel, and other staff.

The House bill, but not the Senate amendment, allows the Secretary to use funds to train teachers in the innovative uses and applications of technology to enhance student learning. The Senate recedes.

Both the House bill and the Senate amendment allow the Secretary to use funds to encourage the development of local and national professional networks, but the House bill states that such networks should be "of educators"; the Senate amendment gives an illustrative example of the networks, and states that the network should "provide a forum for interaction among teachers of the core academic subjects and that allow the exchange of information on advances in content and pedagogy. The House recedes with an amendment further clarifying that the list of examples is illustrative.

Both the House bill and the Senate amendment have similar allowable activities with regard to dissemination of standards (with some minor phrasing and drafting differences), but the House bill refers to "disseminate standards" while the Senate amendment refers to "development and dissemination of teaching standards." The House recedes with an amendment clarifying that the teaching standards be model standards including the dissemination of voluntary national content and performance standards and related models of high quality professional development.

The House bill refers to "voluntary national content and performance standards"; the Senate amendment refers to "voluntary national content standards and voluntary national performance standards." The House recedes with an amendment adding State content standards and State performance standards.

The House bill, but not the Senate amendment, allows the Secretary to use funds for efforts to train teachers in innovative uses of applied learning strategies such as service learning. The Senate recedes with an amendment rewriting the House provision to include efforts to train teachers in innovative instructional methodologies designed to meet the diverse learning needs of individual students, including methodologies which integrate of academic and vocational learning and applied learning; and interactive, interdisciplinary team teaching, and other alter-

native strategies such as service learning, experiential learning, career-related education, and environmental education, that integrate real world applications into the core academic subjects.

The House bill refers to "achieve challenging performance standards"; the Senate amendment refers to "challenging State student performance standards." The House recedes.

The Senate amendment, but not the House bill, allows the Secretary to use funds for the development of exemplary methods of assessing teachers, other staff, and administrators for licensure and certification. The Senate recedes.

The Senate amendment, but not the House bill, allows the Secretary to use funds for the development and testing of incentive strategies for motivating teachers, administrators, and pupil services personnel to increase their effectiveness through professional development. The Senate recedes.

The Senate amendment, but not the House bill, allows the Secretary to use funds for the development of innovative intervention and prevention strategies with regard to special education services. The House recedes with an amendment striking "(A) alleviate the need, or assure appropriate referral, for special education services; and (B) prepare general education and special education teachers, paraprofessionals and pupil services personnel in effective integration of students with disabilities into general education settings, consistent with such student's individualized education program;" and replacing it with the following after "strategies to" "develop activities to prepare teachers, and where appropriate, pupil services personnel and other staff, in the collaborative skills needed to appropriately teach children with disabilities in the core academic subjects."

The amendment effectively allows the Secretary to develop activities to prepare teachers, and where appropriate, pupil services personnel and other staff, in the collaborative skills needed to appropriately teach children with disabilities in the core academic subjects.

The Senate amendment, but not the House bill, allows the Secretary to use funds for encouraging the development of innovative models for recruitment, induction, retention and assessment of new, highly qualified teachers, especially teachers from historically under-represented groups. The House recedes.

The Senate amendment, but not the House bill, allows the Secretary to use funds for joint activities with other Federal agencies and entities engaged in or supporting similar professional development efforts. The House recedes.

The Senate amendment, but not the House bill, allows the Secretary to use funds for the development of programs which prepare teachers to incorporate environmental education in the core academic subjects. The Senate recedes.

The House bill, but not the Senate amendment, requires the Secretary, when carrying out the mandatory activities in subsection (a), to ensure that each program, project, and activity listed in subsection (a) receive an allocation that is no less than the amount that each received in fiscal year 1994. The House recedes.

#### *National Teacher Training Project*

The Senate amendment, but not the House bill, creates a new program entitled the "National Teacher Training Project Act" which authorizes the Secretary to award not more than 10 grants to eligible recipients to support and promote the establishment of

teacher training programs (based on the National Writing Project model) in early childhood development and, to the extent feasible, in each of the 9 core academic subjects; to support classroom research on effective teaching; and to pay the Federal share of the costs of the program. The House recedes with an amendment requiring that 5 percent of the Secretary's set-aside for national activities be used to carry out this program.

#### *Subpart 2—State and Local Activities*

##### *Program Authorized*

The House bill, but not the Senate amendment, authorizes the Secretary to make grants to SEA's for the development by teachers and others of high-quality curricula that are aligned with State or local content and performance standards. The House recedes.

##### *Allocation of Funds*

###### *Within-State Allocations*

The House bill authorizes States to reserve not more than 5% of the funds a State receives for the administrative costs of programs carried out by the SEA and by the State agency for higher education; the Senate amendment authorizes the State to reserve not more than 5% of 75% of the amount of funds a State receives for SEA administrative costs (the Senate amendment does provide for administrative costs for the State agency for higher education). The House recedes with an amendment authorizing the State to reserve 84 percent of the funds received for local activities.

The House bill authorizes States to reserve not more than 5% of the funds a State receives to carry-out State level activities consistent with section 2125 of the House bill; the Senate amendment authorizes States to reserve not more than 5% of 75% of the amount of funds a State receives for State-level activities, consistent with section 2126 of the Senate amendment. The House recedes with an amendment which allows States to reserve 5 percent of 84 percent of the funds received for State administrative costs and for State-level activities.

The House bill, after allowing States to reserve a total of not more than 10% of the amount of funds a State receives for SEA and higher education agency administration and state activities, requires that 87% of the remaining funds be distributed to LEAs on the basis of a formula; the Senate amendment requires that 75% of the amount of funds a State receives be available for State and local activities, and then allows States to reserve not more than a total of 10% of that 75% for SEA administration and activities. The House recedes.

The House bill, after allowing States to reserve a total of not more than 10% of the amount of funds a State receives for SEA and higher education agency administration and state activities, requires that 13% of the remaining funds be used for competitive grants to institutions of higher education; the State amendment requires that 25% of the funds a State receives shall be available to the State agency for higher education. The House recedes with an amendment which requires that 16 percent of the funds the State receives shall be available for higher education activities except that no State agency for higher education shall receive less than was received in fiscal year 1994.

The House bill allows not more than 5% of a State's allocation to be used for administrative costs by the SEA and the State agency for higher education; the Senate amendment allows that not more than 5% of the

amount reserved for the State agency for higher education be used for administrative costs for that agency. The House recedes.

##### *Consortium Requirement*

The House bill requires an LEA which receives an allocation of less than \$10,000 under subsection (a) to form a consortium with at least 1 other LEA or institution of higher education which receives assistance under this section; the Senate amendment requires an LEA, which receives an allocation of less than \$10,000 under this part, to form a consortium with another LEA or with an educational service agency serving another LEA in order to be eligible to participate in programs assisted under this part. The House recedes.

The House bill requires the SEA to waive the consortium requirement if an LEA can demonstrate that the amount received allows the LEA to provide a program of sufficient size, scope, and quality to be effective and, when granting the waiver, the SEA must give special consideration to LEA's serving rural areas and consider State or local cash or in-kind contributions that may be combined with an LEA's allocation to provide services under this part; the Senate amendment allows the chief State school officer to waive the consortium requirement if distances or traveling time between schools make formation of the consortium, more costly or less effective. The Senate recedes with an amendment allowing SEAs to waive the consortia requirement and requiring SEAs to give special consideration to rural LEAs if distances or traveling time between schools make formation of the consortium more costly or less effective.

The Senate amendment, but not the House bill, requires that each consortium rely, as much as possible, on technology or other arrangements to deliver staff development tailored to the needs of each school or school district participating in a consortium required under this section. The House recedes.

##### *State Applications*

The House bill requires applications to include a State plan that is integrated with the State's plan that is either being developed or approved under Goals 2000, or, if the State does not have an approved Goals 2000 State plan and is not developing such a plan, with other State plans under this Act; the Senate amendment requires applications to include a State plan for professional development. The Senate recedes with an amendment requiring State applications to include a plan that is coordinated with other plans under this Act, the Goals 2000: Educate America Act, and other Acts, consistent with the general provisions requirements in ESEA.

The House bill, but not the Senate amendment, includes members of the public who are interested in improving education in the State among the list of entities which must be involved in developing the State's plan. The House recedes.

The Senate amendment, but not the House bill, includes nonprofit organizations of demonstrated effectiveness and pupil services personnel among the list of entities which must be involved in developing the State's plan. The House recedes with amendment adding community-based non-profit organizations of demonstrated effectiveness as one of the organizations that must participate in the development of the State plan.

The Senate amendment, but not the House bill, includes pupil services personnel. The House recedes with an amendment requiring the State plan to be designed to give, where

appropriate, administrators and pupil services personnel the knowledge and skills necessary to provide all students the opportunity to achieve standards.

The House bill refers to "challenging State performance standards"; the Senate amendment refers to "challenging State content standards and challenging State student performance standards." The House recedes.

The House bill refers to "professional development"; the Senate amendment refers to "professional development specifically related to subparagraph (B)." The House recedes.

The House bill, but not the Senate amendment, requires that the State plan include an assessment of State and local needs for the development of curricula that are aligned with State or local content and performance standards. The House recedes.

The House bill, but not the Senate amendment, requires that the State plan include a description of how the plan has assessed the needs of LEAs serving rural areas, and what actions are planned to meet those needs. The Senate recedes with an amendment adding, "and urban" after "rural."

The Senate amendment, but not the House bill, creates a new section entitled "Priority for Professional Development in Mathematics and Science." The House recedes.

The House bill requires that the State plan include a description of how the plan has maintained funding for professional development activities in mathematics and science; the Senate amendment requires that all funds distributed to LEAs be used for math and science professional development when the appropriation is less than \$250,000,000; when the appropriation is at \$250,000,000 or above, LEAs must use all the funds up to \$250,000,000 for math and science professional development and 10% of any funding increase above the \$250,000,000 must be used for math and science. The House recedes with an amendment striking the Senate language with regard to appropriations equal to or above \$250 million and instead including that States are permitted and encouraged to direct amounts above the \$250 million to professional development in mathematics and science.

The House bill, but not the Senate amendment, requires that the State plan include a description of how the State, local, and higher education activities will address the needs of teachers in Title I schools. The Senate recedes.

The House bill requires that the State plan include a description of how programs in all core academic subjects, but especially in math and science, will take into account the need for greater access to, and participation in, such disciplines by students from historically under-represented groups (the House bill includes illustrative examples of under-represented groups) by incorporating pedagogical strategies and techniques which meet their needs; the Senate amendment requires the State plan to describe how the State will ensure a strong focus on professional development in mathematics and science taking into account the need for greater access to, and participation in, such disciplines by students from historically under-represented groups. The Senate recedes with an amendment changing "the disabled" to "individuals with disabilities."

The House bill allows States to use funds depending on the outcome of the State's needs assessments; the Senate amendment allows States to use funds only for professional development. The Senate recedes with an amendment clarifying that funds must be used consistent with the State's needs assessment, and striking "demonstrates a need for professional development."

The House bill refers to "teachers, including teachers in schools receiving assistance under part A of Title I of this Act"; the Senate amendment refers to "teachers." The Senate recedes.

The Senate amendment, but not the House bill, includes parents. The House recedes.

The Senate amendment, but not the House bill, includes educational service agencies. The House recedes.

The House bill refers to "institutions of higher education; the Senate amendment refers to "institutions of higher education or nonprofit organizations of demonstrated effectiveness." The House recedes.

The House bill refers to "professional development in all the core academic subject areas, but especially in mathematics and science"; the Senate amendment refers to "professional development in the core academic subjects." The House recedes.

The House bill requires the State plan to describe how the State will take specific steps to review, and if necessary, reform State requirements for licensure of teachers and administrators in order to align those requirements with State content and performance standards; the Senate amendment requires the State, in the State plan, to describe how the State requirements for licensure of teachers and administrators support challenging State content standards and challenging State student performance standards. The House recedes with an amendment clarifying that the State plan describe whether State requirements for teacher and administrator licensure are aligned with State content standards and performance standards.

The House bill refers to "address the need for improving teaching and learning through teacher development"; the Senate amendment refers to "describe the need for teacher development." The Senate recedes.

The Senate amendment, but not the House bill, requires the State, when describing the need for teacher development in the State plan, to take into account the need, as determined by the State, for greater access to and participation in the teaching profession by individuals from historically under-represented groups. The House recedes.

The Senate amendment, but not the House bill, requires the State, in the State plan, to describe how the State will prepare all teachers to teach children with diverse learning needs, including children with disabilities. The House recedes.

The Senate amendment, but not the House bill, requires the State, in the State plan, to describe how the State will prepare teachers, paraprofessionals and pupil services personnel in effective prevention and intervention strategies to alleviate the need, and assure appropriate referral for, special education services, and to prepare general and special education staff to work collaborative to educate with students with disabilities who are in the regular classroom, consistent with the student's IEP. The House recedes with an amendment striking "effective prevention and intervention strategies to" and inserting after "personnel" the following: "and other staff in the collaborative skills needed to appropriately teach children with disabilities in the core academic subjects." and striking the text of (i) and (ii).

This amendment effectively requires the State to describe how it will prepare teachers, and where appropriate, pupil services personnel and other staff, in the collaborative skills needed to appropriately teach children with disabilities in the core academic subjects.

The Senate amendment, but not the House bill, requires the State, in the State plan, to describe how the State will use technology, including the emerging national information infrastructure, to enhance the professional development of teachers, administrators, and pupil services personnel. The House recedes with an amendment requiring that where appropriate, administrators and pupil services personnel be included in such professional development activities.

The Senate amendment, but not the House bill, requires the State, in the State plan, to describe how the State will provide incentives to teachers and administrators to focus their professional development on preparing themselves to provide instruction consistent with challenging State content standards and challenging State student performance standards. The House recedes.

The Senate amendment, but not the House bill, requires the State, in the State plan, to set specific outcome performance indicators for professional development. The House recedes with an amendment striking "outcome performance indicators" and instead referring to "performance indicators".

The Senate amendment, but not the House bill, requires the State, in the State plan, to describe how parents can be involved in professional development programs to enhance their participation in the education of their children. The House recedes.

The House bill, but not the Senate amendment, requires the State, if the State's needs assessment demonstrates a need for curricula development, to describe in the State plan a strategy for engaging teachers in the development of curricula that are aligned with State or local content and performance standards and how the State will work with administrators, parents, school board members, and other members of the community in developing high quality curricula that are aligned with State or local content and performance standards. The House recedes.

The Senate amendment, but not the House bill, requires that each State plan remain in effect for the duration of the State's participation in the program authorized under this subpart, and that the plan be periodically reviewed and revised by the State, as necessary, to reflect changes in the State's strategies and programs under this subpart. The House recedes.

The Senate amendment, but not the House bill, requires that the State plan describe how activities under this subpart will be coordinated with activities conducted under parts B and D of the Individuals with Disabilities Education Act. The House recedes with an amendment striking "part B and D of the Individuals with Disabilities Education Act" and instead referring to the Individuals with Disabilities Education Act.

The Senate amendment, but not the House bill, requires that the State plan describe how activities under this subpart will be coordinated with resources from museums, libraries, educational television stations, and public and private nonprofit organizations of demonstrated experience. The House recedes.

The Senate amendment, but not the House bill, includes Federal funds from the Institute of Museum Services among the list of funding with which activities under this subpart must be coordinated. The House recedes.

#### State-Level Activities

The House bill refers to "State's content standards"; the Senate amendment refers to "State's challenging State content standards." The House recedes.

The House bill refers to "challenging State performance standards"; the Senate amend-

ment refers to "challenging State student performance standards." The House recedes.

The House bill, but not the Senate amendment, directs States to pay special attention to LEAs and schools receiving Title I assistance when providing technical assistance. The Senate recedes.

The House bill, but not the Senate amendment, allow States to provide technical assistance to schools and LEAs in order to help such entities develop high quality curricula. The House recedes.

The House bill, not the Senate amendment, allows States to use funds to develop partnerships between schools, consortia of schools, of LEAs and institutions of higher education to provide professional development services and to encourage students studying to become teachers to have direct, practical experience in schools. The Senate recedes.

The House bill allows States to use funds to enhance the effective use of technology as an instructional tool for increasing student understanding of the core academic subjects; the Senate amendments allow States to use funds for professional development in the effective use of technology as an instructional tool for increasing student understanding of the core academic subjects. The House recedes.

The House bill, not the Senate amendment, in allowing States to use funds for effective use of technology, gives, as an example of this "use", efforts to train teachers in the innovative uses and application of instructional technology. The House recedes.

The House bill, not the Senate amendment, in allowing States to use funds for effective use of technology, gives as an example of this "use", utilizing and strengthening existing telecommunications infrastructure dedicated to educational purposes. The House recedes.

The House bill refers to "access to and teaching practices"; the Senate amendment refers to "students' access to computers and other educational technology and in teaching practices." The House recedes.

The House bill refers to "curriculum development and technical assistance processes"; the Senate amendment refers to "assessment, curriculum development, and technical assistance processes." The House recedes.

The House bill refers to "teachers and other school staff"; the Senate amendment refers to "teachers, pupil services personnel, and other school staff." The House recedes with an amendment clarifying that professional development services be provided to pupil services personnel and other school staff where appropriate.

The House bill refers to "challenging State performance standards"; the Senate amendment refers to "challenging State content standards and challenging State student performance standards." The House recedes.

The House bill refers to "designing professional development activities that increase"; the Senate amendment refers to "professional development and recruitment activities designed to increase." The House recedes.

The House bill refers to "numbers of members of minority and other under-represented groups"; the Senate amendment refers to "numbers of minorities, individuals with disability and females." The House recedes.

The House bill refers to "in the teaching force in the core subjects"; the Senate amendment refers to "teaching in the core academic subjects in which such individuals are under-represented." The House recedes.

The House bill, but not the Senate amendment, allows States to use funds to develop high quality curriculum that is aligned with State or local content and performance standards. The House recedes.

The House bill allows States to use funds to provide financial or other incentives for teachers to become certified by the National Board for Professional Teaching Standards; the Senate amendment allows States to use funds to provide financial or other incentives for teachers to become certified by nationally recognized professional teacher enhancement organizations. The House recedes.

The Senate amendment, but not the House bill, allows States to use funds for designing systems that enable teachers to meet pay ladder professional development requirements that are tied to the content standards. The Senate recedes.

The Senate amendment, but not the House bill, allows States to use funds for professional development that is designed to provide the collaborative skills that are needed to appropriately serve children with disabilities in the general education setting consistent with the IEP, and to develop the skills needed for effective prevention and intervention teaching strategies to alleviate the need, or assure appropriate referral, for special education services. The House recedes with an amendment striking the text of (a) and (b) and replacing it with the following: "prepare teachers, and where appropriate, pupil services personnel, paraprofessionals and other staff, in the collaborative skills needed to appropriately teach children with disabilities in the core academic subjects."

This amendment allows local educational agencies to provide professional development activities which prepare teachers, and where appropriate, pupil services personnel, paraprofessionals, and other staff, in the collaborative skills needed to appropriately teach children with disabilities in the core academic subjects.

The Senate amendment, but not the House bill, allows States to use funds for identifying, developing, or supporting parental involvement programs to better equip parents to participate in the education of their children. The House recedes with an amendment to clarify that funds may be used for identifying, developing or supporting professional development strategies and programs to better equip parents in assisting their children to raise their achievement in the core academic subjects.

The Senate amendment, but not the House bill, allows States to use funds for professional development activities designed to increase the number of women and other under-represented groups in the administration of schools. The House recedes.

The Senate amendment, but not the House bill, allows States to use funds to provide training for LEA employees in the area of early childhood development to ensure that early childhood education services provided to low income students below the age of compulsory school attendance comply with the Head Start performance standards. The House recedes.

The Senate amendment, but not the House bill, allows States to use funds to provide technical assistance to teachers, administrators, parents, and related services personnel in the area of early childhood development in order to ensure that early childhood education services provided to low income students below the age of compulsory school attendance comply with the Head Start performance standards. The House recedes.

#### *Local Plan and Application for Improving Teaching and Learning*

The House bill, but not the Senate amendment, clarifies that LEAs may submit applications singly or as consortia. The Senate recedes.

The House bill, but not the Senate amendment, requires an LEA, if it has an application approved by the State under Goals 2000, to have its application under this program as a component of or an addendum to its Goals 2000 application. The Senate recedes with an amendment requiring each LEA to make its Eisenhower application a component of its plan, as appropriate, under other ESEA programs, Goals 2000, or other Acts.

The House bill requires an LEA to set specific performance indicators for improving teaching and learning through professional development and curriculum development; the Senate amendment has a similar provision under the application contents. The Senate recedes with an amendment striking the reference to curriculum development.

The House bill requires an LEA to submit, as part of its application, the results of the needs assessment and the LEA plan; the Senate amendment has a similar requirement. The House recedes.

The House bill requires an LEA to include in its application an assessment of its need for professional development and an assessment of its need for the development of high quality curricula that are aligned with State or local content and performance standards; the Senate amendment requires an LEA to include in its application an assessment of local needs for professional development as identified by the LEA and school staff. The House recedes.

The House bill requires that the needs assessment be carried out with the involvement of teachers, including teachers in Title I schools, and that the assessment take into account what activities need to be conducted in order to give teachers and administrators the means to provide students with the opportunity to meet the State or local performance standards; the Senate amendment requires that the need for professional development be identified by the LEA and school staff. The Senate recedes with an amendment clarifying that professional development services include administrators, where appropriate.

The House bill requires that the LEA plan be developed jointly by the LEA and by teachers from the core academic disciplines, and that the teachers be representative of both the grade spans within the schools to be served and Title I schools; the Senate amendment requires that the LEA plan be developed with the extensive participation of teachers, administrators, staff, and pupil services personnel. The House recedes with an amendment requiring that each LEA's plan for professional development be focused on teaching and learning in the core academic subjects, clarifying that, where appropriate, administrators participate in the development of the plan, and requiring that the teachers served by the professional development be representative of the grade spans within schools to be served and of schools which receive Title I assistance.

The House bill, but not the Senate amendment, requires LEA plans to describe a number of items based on the LEA's need assessment. The Senate recedes.

The House bill, but not the Senate amendment, requires the LEA plan to include a description of the LEA's strategy to improve teaching and learning in every school. The House recedes.

The House bill, but not the Senate amendment, requires the LEA plan to include a description of how the plan contributes to the LEA's overall efforts for school reform and educational improvement. The Senate recedes.

The House bill, but not the Senate amendment, requires the LEA plan to include a description of the activities the LEA intends to undertake under this subpart consistent with the LEA's needs assessment. The House recedes.

The House bill, but not the Senate amendment, requires the LEA plan to include a description of how the plan has maintained funding for professional development activities in math and science education. The House recedes.

The House bill, but not the Senate amendment, requires the LEA plan to include a description of how the activities funded under this section will address the needs of teachers in Title I schools. The Senate recedes.

The Senate amendment, but not the House bill, requires that the LEA professional development plan be aligned with the State's challenging State content standards and challenging State student performance standards. The House recedes.

The Senate amendment, but not the House bill, requires that the LEA professional development plan describe a strategy, tied to challenging State content standards and challenging State student performance standards, for addressing the needs identified in the needs assessment. The House recedes with an amendment clarifying that the strategy be consistent with the needs assessment carried out by the LEA.

The Senate amendment, but not the House bill, requires the LEA professional development plan include strong academic content and pedagogical components. The Senate recedes.

The Senate amendment, but not the House bill, requires the LEA professional development plan be of sufficient intensity and duration to have a positive and lasting impact on the student's performance in the classroom. The House recedes.

The Senate amendment requires the LEA professional development plan to set specific outcome performance indicators; the House bill has a similar provision. The Senate recedes.

The House bill and the Senate amendment have similar provisions which require the LEA plan to take into account the need for greater access to, and participation in, the core academic subjects, especially math and science, by students from historically under-represented groups, but the House bill gives illustrative examples of the under-represented groups and suggests that the plan incorporate pedagogical strategies and techniques which meet the under-represented groups' educational needs. The Senate recedes with an amendment striking "the disabled" and replacing it with "individuals with disabilities."

The House bill refers to "using the performance indicators"; the Senate amendment refers to "using the outcome performance indicators to determine the effectiveness of such activities." The Senate recedes.

The House bill requires the local plan to describe how the program funded by this subpart will be coordinated with the activities conducted by institutions of higher education under this program and other services of such institutions; the Senate amendment requires that the local plan describe how the program will be coordinated with the services of institutions of higher education. The Senate recedes.

The House bill requires that the local plan describe how the program funded by this subpart will be coordinated with similar State and local activities; the Senate amendment requires that the local plan describe how programs funded under this subpart will be coordinated with State and local funds. The Senate recedes.

The House bill requires the local plan to describe how the program will be coordinated with resources from other ESEA programs, particularly the technology program under title II, part B; the Senate amendment requires the local plan to describe how the program will be coordinated with resources provided under other ESEA programs. The House recedes.

The House bill requires the local plan to describe how the program will be coordinated with resources from private non-profit organizations (including museums, libraries, educational television stations, community-based organizations, professional organizations, and associations specializing in, or with a demonstrated expertise in the core academic disciplines); the Senate amendment requires the local plan to describe how the program will be coordinated with resources from museums, libraries, educational television stations, and public and private nonprofit organizations of demonstrated experience. The Senate recedes with an amendment adding public non-profit organizations to the list of entities.

The House bill refers to "funds or programming from other Federal agencies"; the Senate amendment refers to "funds received from other Federal agencies." The Senate recedes.

The Senate amendment, but not the House bill, requires the local plan to describe how the program will be coordinated with funds received from the Institute of Museum Services. The House recedes.

The Senate amendment, but not the House bill, requires the local plan to describe how the program will be coordinated with the services of educational service agencies. The House recedes.

The Senate amendment, but not the House bill, requires the local plan to describe how the program will be coordinated with the resources provided under parts B, D, and H of IDEA. The House recedes with an amendment striking the reference to part B, D, and H of the Individuals with Disabilities Education Act and instead referring to the Individuals with Disabilities Education Act.

The Senate amendment, but not the House bill, requires the local plan to describe the strategies that will be employed to more fully and effectively involve parents in the education of their children. The House recedes with an amendment clarifying that the strategies be professional development strategies.

The Senate amendment, but not the House bill, requires that each local plan remain in effect for the duration of the LEA's participation under this subpart, and the plan be periodically reviewed and revised by the LEA, as necessary, to reflect changes in the LEA's strategies and programs under this subpart. The House recedes.

#### Local-Cost Sharing

The House bill, but not the Senate amendment, clarifies that non-Federal sources of cash expenditures may include private contributions. The Senate recedes.

The House bill, but not the Senate amendment, allows cash expenditures from non-Federal sources directed toward curriculum development activities to be used to meet the local cost sharing requirement. The House recedes.

The House bill, but not the Senate amendment, allows release time for teachers participating in curriculum development to be used to meet the local cost sharing requirement. The House recedes.

The House bill refers to "if used for professional development or curricula development activities"; the Senate amendment refers to "so long as funds are used for professional development activities." The House recedes.

The Senate amendment, but not the House bill, allows programs that are related to the purpose of this Act and administered by the Institute of Museum Services to be used to meet the local cost sharing requirement. The House recedes.

#### Local Allocation of Funds and Allowable Activities

The Senate amendment, but not the House bill, allows parts B and D of IDEA to be used to meet the local cost sharing requirement. The House recedes with an amendment striking the reference to parts B and D of the Individuals with Disabilities Education Act and instead referring to the Individuals with Disabilities Education Act.

The Senate amendment, but not the House bill, includes a special rule which allows an LEA to meet the local cost sharing requirement through contributions that are provided in cash or in kind, fairly evaluated. The House recedes.

The House bill, but not the Senate amendment, allows the SEA to waive the local cost sharing requirement if an LEA can demonstrate that it is unable to meet the requirement due to economic hardship and that compliance with the requirement would preclude its participation in this program. The Senate recedes.

The House bill requires that not less than 80% of the funds received by an LEA be utilized for providing professional development of teachers, principals, and other instructional staff who work directly with children and for engaging teachers and other staff in the development of high quality curricula that is aligned with State and local content standards; the Senate amendment requires that at least 80% of the funds received by an LEA be utilized for providing professional development of teachers, administrators, pupil services personnel, parents, and other staff of individual schools. The House recedes with an amendment clarifying that where appropriate, professional development should be provided to administrators, pupil services personnel, parents, and other staff.

Technical Note: It was the intention of the House that the language beginning "in a manner that is determined," through the end of subparagraph (B) was to apply to both subparagraph (A) and (B).

The Senate amendment, but not the House bill, requires that professional development, to the extent practicable, take place at the individual school site. The House recedes.

The House bill, but not the Senate amendment, requires that curricula development activities be consistent with other plans for curricula development carried out with Federal, State, or local funds. The House recedes.

The Senate amendment, but not the House bill, requires professional development activities to be consistent with other Federal, State or local plans for professional development only if such plans emphasize sustained, ongoing activities. The House recedes.

The House bill, but not the Senate amendment, allows LEAs to use not more than 20% of their funds for district level curricula development activities. The House recedes.

The House bill makes it optional for administrators and policy-makers to be in-

involved in district-level professional development or curricula development activities if those activities directly support instructional personnel; the Senate amendment requires that district level professional development activities include administrators, policy-makers, and parents. The House recedes with an amendment clarifying that where appropriate, administrators, policy-makers, and parents be included in the district-level professional development activities.

The House bill requires schools and LEAs receiving funds to use such funds for activities that give teachers and administrators the knowledge and skills to provide students with the opportunity to meet challenging State or local content and performance standards; the Senate amendment requires schools and LEAs receiving funds to use such funds for activities that contribute to the implementation of the LEA's profession. The Senate recedes.

The House bill, but not the Senate amendment, states explicitly that funds received by LEAs and schools can only be used for those activities that are specifically outlined in the legislation. The House recedes.

The House bill, but not the Senate amendment, requires that not less than 80% of the funds received shall be used for professional development activities, and not more than 20% of the funds received shall be used for curricula development activities. The House recedes.

The House bill, but not the Senate amendment, requires that if an LEA's needs assessment determines that funds received should be used to provide professional development in the core academic subjects for teachers and other school staff, then the LEA shall use its funds for professional development that will support teaching which is consistent with State or local content standards, and which, to the extent practicable, is coordinated with professional development activities of institutions of higher education and activities carried out by institutions of higher education with funds received under this program. The House recedes.

Explanatory Note: The House bill, but not the Senate amendment, has a listing of six criteria with which professional development activities conducted by LEAs and schools with funds under this program must be consistent.

The House bill, but not the Senate amendment, requires that LEA and school professional development activities be tied to challenging State or local content and student performance standards. The Senate recedes with an amendment striking "State or local content and student performance standards" and replacing the phrase with "State content standards of challenging local content standards and challenging State student performance standards or challenging local student performance stands."

The House bill, but not the Senate amendment, requires that LEA and school professional development activities reflect recent research on teaching and learning. The Senate recedes with an amendment requiring professional development activities to take into account research on teaching and learning.

The House bill requires that LEA and school professional development activities incorporate effective strategies, techniques, methods, and practices for meeting the educational needs of diverse student in order to ensure that all students have the opportunity to achieve challenging performance standards; the Senate amendment allows

LEAs and schools to conduct professional development activities which incorporate effective strategies, techniques, methods, and practices for meeting the educational needs of diverse students. The House recedes.

The House bill, but not the Senate amendment, requires that LEA and school professional development activities include strong academic content and pedagogical components. The Senate recedes.

The House bill, but not the Senate amendment, requires that LEA and school professional development activities be of sufficient intensity and duration to have a positive and lasting impact on the teacher's performance in the classroom. The Senate recedes.

The House bill, but not the Senate amendment, requires that LEA and school professional development activities be part of the everyday life of the school and create an orientation toward continuous improvement throughout the school. The House recedes.

The Senate amendment, but not the House bill, includes pupil services personnel among those individuals for whom professional development can be provided. The House recedes with an amendment allowing professional development to be provided, where appropriate, to administrators, pupil services personnel, or other staff.

The House bill refers to "State or local content standards"; the Senate amendment refers to "challenging State content standards and challenging State student performance standards." The House recedes.

The Senate amendment, but not the House bill, allows LEAs and schools to provide professional development to create a school environment conducive to high achievement in the core academic subjects. The Senate recedes.

The Senate amendment, but not the House bill, clarifies that "support and time", in the case of teachers, may include release time with pay. The House recedes.

The Senate amendment, but not the House bill, allows schools and LEAs to provide pupil services personnel with support and time to enable them to participate in professional development activities. The House recedes with an amendment clarifying that support and time be provided to pupil services personnel and other staff where appropriate.

The House bill, but not the Senate amendment, includes educational partnership organizations among the list of providers of professional development. The Senate recedes.

The Senate amendment, but not the House bill, includes science centers among the list of providers of professional development. The House recedes.

The Senate amendment, but not the House bill, allows LEAs and schools to use funds to establish and maintain local professional networks of pupil services personnel. The Senate recedes.

The Senate amendment, but not the House bill, allow LEAs and schools to use funds to prepare teachers in the effective use of assistive technology. The House recedes.

The House bill refers to "activities to enable teachers"; the Senate amendment refers to "professional development to enable teachers, pupil services personnel, and other school staff." The House recedes with an amendment clarifying that professional development activities may be provided, where appropriate, to pupil services personnel and other school staff.

The House bill refers to "challenging State performance standards"; the Senate amendment refers to "challenging State content standards and challenging State student performance standards." The House recedes.

The House bill allows schools and LEAs to use funds for professional development and recruitment activities to increase the number of minorities, individuals with disabilities, and females teaching in the core academic subjects in which they are under-represented; the Senate amendment allows schools and LEAs to use funds for professional development activities to increase the numbers of minorities, individuals with disabilities, and other under-represented groups in the teaching force. The Senate recedes.

The Senate amendment, but not the House bill, allows schools and LEAs to use funds for professional development activities to increase the numbers of women and members of other under-represented groups who are science and mathematics teachers, for example, through career ladder programs that assist educational paraprofessionals to obtain teaching credentials. The House recedes with an amendment clarifying that the teaching credentials obtained be in the core academic subjects.

The House bill allows funds to be used by schools and LEAs for the development of incentive strategies for rewarding schools where a substantial portion of teachers achieve certification by the National Board for Professional Teaching Standards; the Senate amendment allows funds to be used by schools and LEAs for providing financial or other incentives for teachers to become certified by nationally recognized professional teacher enhancement programs. The House recedes.

The House bill, but not the Senate amendment, allows schools and LEAs to use funds for other sustained and intensive high quality professional development activities in the core academic subjects. The House recedes.

The Senate amendment, but not the House bill, allows schools and LEAs to use funds for support and time (which in the case of teachers may include release time with pay) for teachers, pupil services personnel, and other school staff to participate in professional development that goes beyond training and encourages a variety of forms of learning that are related to an educator's regular work. The Senate recedes.

The Senate amendment, but not the House bill, allows schools and LEAs to use funds for support and time for teachers, pupil services personnel and other school staff to learn and implement effective collaboration for the instruction of children with disabilities placed into general education settings, consistent with the child's IEP, and in prevention and intervention strategies to alleviate the need for, or assure appropriate referrals of children for special education services. The House recedes with an amendment striking after "disabilities" the following: "placed into general education settings, consistent with such child's individualized education program, and" and insert in its place "in the core academic subjects" after "disabilities"; and striking (ii).

This amendment clarifies that LEAs may use funds for support and time for teachers, and where appropriate, pupil services personnel and other school staff, to learn and implement effective collaboration for the instruction of children with disabilities in the core academic subjects.

The Senate amendment, but not the House bill, allows schools and LEAs to use funds for peer training and mentoring programs in the core academic subjects and in the development of social, emotional, and mental health needs of children. The Senate recedes.

The Senate amendment, but not the House bill, allows schools and LEAs to use funds to

prepare teachers and pupil services personnel to work with parents and families on fostering student achievement in the core academic subjects. The House recedes with an amendment clarifying that where appropriate pupil services personnel may participate in professional development activities.

The Senate amendment, but not the House bill, allows schools and LEAs to use funds to establish policies to permit teachers to meet pay ladder requirements by demonstrating content and pedagogical competence rather than by only meeting course requirements. The Senate recedes.

The Senate amendment, but not the House bill, allows schools and LEAs to use funds for professional development activities and other support for new teachers as such teachers transition into the classroom to provide such teachers with practical support and to increase retention. The House recedes.

The Senate amendment, but not the House bill, allows schools and LEAs to use funds for professional development for teachers, parents, early childhood educators, administrators, and other staff to support activities and services related to the Transition to Success program under part B of title I. The House recedes with an amendment which allows schools and LEAs to use funds for professional development for teachers, parents, early childhood educators, administrators, and other staff to support activities and services related to preschool programs in order to raise student performance in the core academic subjects.

The Senate amendment, but not the House bill, allows schools and LEAs to use funds to develop incentive strategies for rewarding teachers, administrators, and pupil services personnel collectively in schools that sustain high performance or consistent growth in the number of their students who meet the challenging State content standards and challenging State student performance standards. The Senate recedes.

The Senate amendment, but not the House bill, allows schools and LEAs to use funds for developing strategies and programs to more effectively involve parents in the education of their children. The House recedes with an amendment clarifying that funds may be used for developing professional development strategies and programs to more effectively involve parents in helping their children achieve in the core academic subjects.

The Senate amendment, but not the House bill, allows schools and LEAs to use funds for professional development activities designed to increase the number of women and other under-represented groups in the administration of schools. The House recedes.

The Senate amendment, but not the House bill, allows schools and LEAs to use funds for release time with pay for teachers. The House recedes.

The Senate amendment, but not the House bill, allows schools and LEAs to use funds for professional development in experiential based teaching methods such as service learning. The House recedes with an amendment rewriting the Senate provision to include professional development activities to train teachers in innovative instructional methodologies designed to meet the diverse learning needs of individual students, including the integration of academic and vocational learning and applied learning; and interactive, interdisciplinary team teaching, and other alternative strategies such as service learning, experiential learning, career-related education, and environmental education, that integrate real world applications into the core academic subjects.

The House bill, but not the Senate amendment, requires an LEA, if that LEA's needs assessment determines that funds under this program should be used for curriculum development, to use the funds provided to develop high quality curricula that is aligned with State or local content and performance standards. The House recedes.

The House bill, but not the Senate amendment, allows schools and LEAs to use funds to purchase curriculum materials to the extent that such materials are essential components of the LEA's plan to improve teaching and learning in the core academic subjects. The House recedes.

#### Higher Education Activities

The Senate amendment, but not the House bill, clarifies that it is from amounts made available under section 2123(2) of the bill that the State agency for higher education is to award grants or enter into contracts for professional development activities. The House recedes.

The House bill allows grants to be made to or contracts to be entered into or cooperative agreements with institutions of higher education and nonprofit organizations (including museums and educational partnership organizations) which demonstrate consultation and cooperation with an LEA, consortium of LEAs, or schools; the Senate amendment allows grants to be made to or contracts to be entered into or cooperative agreements with institutions of higher education or private nonprofit organizations working in conjunction with LEAs. The Senate recedes with an amendment to clarify that nonprofit organizations be of demonstrated effectiveness and that eligible entities must work in conjunction with an LEA, a consortium of LEAs or schools.

The House bill refers to "core academic subject areas"; the Senate amendment refers to "core academic subjects." The Senate recedes.

The House bill, but not the Senate amendment, allows the State agency for higher education to use funds to support activities which engage teachers in the development of high-quality curricula that are aligned with state or local content and performance standards. The House recedes.

The House bill, but not the Senate amendment, allows the State agency for higher education to use funds to develop and provide assistance to LEAs, and the teachers and staff of the LEA, for sustained, high quality professional development activities. The Senate recedes.

The House bill, but not the Senate amendment, allows the State agency for higher education to use funds to support improving teacher education programs in order to promote further innovation in teacher education programs within an institution of higher education and to better meet the needs of LEAs for well-prepared teachers. The Senate recedes.

The House bill, but not the Senate amendment, prohibits institutions of higher education from receiving funds under subsection (a)(1) unless the institution enters into an agreement with an LEA or a consortium of LEAs to provide sustained, high quality professional development for elementary and secondary teachers in the schools of the LEA. The Senate recedes.

The Senate amendment, but not the House bill, allows the State agency for higher education to fund activities which provide professional development for pupil services personnel. The House recedes with an amendment clarifying that, where appropriate, pupil services personnel and administrators

may participate in professional development activities.

*Explanatory Note:* The House bill, but not the Senate amendment, gives illustrative examples of sustained and intensive professional development activities.

The House bill, but not the Senate amendment, gives as an example of a sustained and intensive professional development activity the establishment and maintenance of professional networks of teachers that provide a forum for interaction among teachers and that allow exchange of information on advances in content and pedagogy. The House recedes.

The House bill, but not the Senate amendment, gives as an example of a sustained and intensive professional development activity programs that prepare teachers to be effective users of information technology, able to integrate technology into their pedagogy and their instructional practices, and able to enhance their curricular offerings by appropriate applications of technology. The House recedes.

The House bill, but not the Senate amendment, gives as an example of a sustained and intensive professional development activity programs that utilize information technology to deliver intensive and high quality professional development activities for teachers. The House recedes.

The House bill, but not the Senate amendment, gives as an example of a sustained and intensive professional development activity activities to enable teachers to ensure that girls, young women, minorities, limited English proficient students, individuals with disabilities, and economically disadvantaged individuals have the opportunity to achieve the challenging State performance standards in the core academic subjects. The House recedes.

The House bill, but not the Senate amendment, gives as an example of a sustained and intensive professional development activity activities designed to increase the number of minorities, individuals with disabilities, and other under-represented groups teaching in the core academic subjects, particularly in math and science. The House recedes.

The House bill, but not the Senate amendment, gives as an example of a sustained and intensive professional development activity the establishment of professional development academies. The House recedes.

The House bill, but not the Senate amendment, gives as an example of a sustained and intensive professional development activity technical assistance to LEAs in providing sustained and intensive professional development activities for teachers. The House recedes.

The Senate amendment, but not the House bill, allows the State agency for higher education to use funds to support preservice training activities. The House recedes.

The Senate amendment, but not the House bill, allows each institution of higher education which receives a grant to enter into a partnership with a private industry, museum, library, educational television station, or public or private nonprofit organization of demonstrated experience to carry out professional development. The House recedes.

#### Subpart 3—General Provisions

##### Reporting and Accountability

The Senate amendment, but not the House bill, clarifies that States should submit their reports beginning with fiscal year 1997. The House recedes.

The House bill refers to "performance indicator"; the Senate amendment refers to

"outcome performance indicators." The Senate recedes.

The Senate amendment, but not the House bill, clarifies that LEAs should submit their reports beginning with fiscal year 1997. The House recedes.

The House bill refers to "the outcome performance indicators in its plan"; the Senate amendment refers to "outcome performance indicators identified in such agency's local plan." The House recedes with an amendment striking the term "outcome performance indicators" and referring to "performance indicators."

The Senate amendment, but not the House bill, requires LEAs to report on the effectiveness of the LEA's activities under this program. The House recedes.

The Senate amendment, but not the House bill, requires the Secretary to report to the President and the Congress on the effectiveness of programs and activities assisted under this program. The House recedes.

The House bill, but not the Senate amendment, prohibits funds from being used for construction or renovation of buildings, rooms, or any other facilities. The Senate recedes.

#### Definitions

The House bill defines the term "core academic subjects" as those subjects listed in the State plan under title III of Goals 2000 or as set in National Education Goal III of Goals 2000; the Senate amendment defines that term as subjects such as English, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography. The Senate recedes.

The House bill uses and defines the term "performance indicator"; the Senate amendment uses and defines the term "outcome performance indicators." The Senate recedes.

The House bill refers to "challenging State standards in the core academic subject area"; the Senate amendment refers to "challenging State content standards and challenging State student performance standards." The House recedes.

The House bill uses the term "State standards"; the State amendment uses the term "challenging State content standards and challenging State student performance standards." The House recedes.

The House bill, but not the Senate amendment, gives as an example of an indicator incorporating effective strategies, techniques, methods, and practices for meeting the educational needs of diverse students in order to ensure that all students have the opportunity to achieve challenging performance standards and lists the types of diverse students. The Senate recedes.

The House bill refers to "increases in the number of Board certified teachers licensed in each core subject"; the Senate amendment refers to "increases in the number of teachers who are certified by the National Board for Professional Teaching Standards or other nationally recognized professional teacher enhancement organizations." The House recedes.

The Senate amendment, but not the House bill, gives as an example of an indicator the pass rates on teacher examinations for initial and continuing certification or licensure. The Senate recedes.

The Senate amendment, but not the House bill, gives as an example of an indicator the specific increases in the number of teachers licensed in each core academic subject. The House recedes.

The House bill refers to "challenging State or voluntary national content and performance standards"; the Senate amendment refers to "challenging State content standards,

challenging State student performance standards, voluntary national content standards or voluntary national student performance standards." The House recedes.

The House bill refers to "content and pedagogical components"; the Senate amendment refers to "content and pedagogical components appropriate for students with diverse learning needs." The House recedes.

The House bill, but not the Senate amendment, includes as a criterion of sustained and intensive high quality professional development activities which incorporate effective strategies, techniques, methods, and practices for meeting the educational needs of diverse students in order to assure that all students have the opportunity to achieve challenging performance standards and lists the types of diverse students. The Senate recedes.

The House bill, but not the Senate amendment, includes a definition of the term "local standard." The Senate recedes with an amendment clarifying the terms "student performance standard", "core academic subjects", "challenging State content standards", and "challenging State student performance standards."

The Senate amendment, but not the House bill, includes a definition of the term "prevention." The Senate recedes.

#### Professional Development Demonstration Project

The Senate amendment, but not the House bill, includes a Professional Development Demonstration Project which authorizes the Secretary to award grants to eligible partnerships to plan and implement professional development programs. Findings, purpose, program requirement, eligible partnerships, and grant requirements are also described. This program is funded from a 1.25% set-aside of funds. The House recedes with an amendment funding the program from a 1 percent set-aside, but requires that, in each of the fiscal years 1996 through 1999, the amount of funding the demonstration project receives shall not exceed the amount the project received in FY 1995.

#### TITLE III—TECHNOLOGY FOR EDUCATION (Title II, Part B in H.R. 6/Title III in S. 1513) Part A—Technology for Education

1. The House bill names Title II, Part B, "Technology Education Assistance"; the Senate amendment names Title III, "Technology for Education."

The House recedes.  
2. Both bills give similar short titles, but the House bill adds the word, "assistance" to the title.

Legislative counsel.

3. Technical.

Legislative counsel.

#### Findings

4. Similar points concerning the role of technology in education. The House bill emphasizes the lack of federal leadership in this area, the Senate amendment notes the need for such leadership. The House bill emphasizes the growing disparities between rich and poor students in the absence of educational technology policies; the Senate amendment emphasizes that public policy should give priority to students in greatest need. The House bill emphasizes education equalization, particularly for students in urban and rural areas; the Senate amendment emphasizes individualized instruction. The Senate bill emphasizes how the acquisition and use of technology has been inhibited.

The House recedes with an amendment merging findings that appear in two places

in the House bill (note 246, p. 95; note 389, page 135) and one place in the Senate amendment (note 346, p. 95):

Combine (1) from House bill with (1) from Senate amendment:

"(1) technology can produce far greater opportunities for all students to learn to high standards, promote efficiency and effectiveness in education, and help propel our Nation's school systems into very immediate and dramatic reform, without which our Nation will not meet the National Education Goals by the target year 2000;"

Include (2) from House bill and delete (5) from Senate amendment.

Combine (3) from House bill with (3) from Senate amendment:

"(3) the acquisition and use of technology in education throughout the United States has been inhibited by—

(A) the absence of Federal leadership;  
(B) the inability of many State and local educational agencies to invest in and support needed technologies;

(C) the limited exposure of students and teachers to the power of technology as a cost-effective tool to improve student learning and achievement"

(D) the lack of appropriate electrical and telephone connections in the classroom; and  
(E) the limited availability of appropriate technology-enhanced curriculum, instruction, professional development and administrative support resources and services in the educational marketplace;"

Combine (9) from Senate amendment with (4) from House bill, deleting (5) from House bill:

"(4) policies at the Federal, State, and local levels concerning technology in education must address disparities in the availability of technology to different groups of students, give priority to serve students in greatest need, and recognize that educational telecommunications and technology can address educational equalization concerns and school restructuring needs by providing universal access to high-quality teaching and programs, particularly in urban and rural areas;"

Include (11) from Senate amendment, add "and industry" after "business" in (11), and delete (6) from House bill.

Combine (7) from House bill with (10) from Senate amendment:

(6) Technology can enhance the ongoing professional development of teachers and administrators by providing constant access to updated research in teaching and learning by means of telecommunications, and, through exposure to technology advancements, keep teachers and administrators excited and knowledgeable about unfolding opportunities for the classroom;"

#### Purpose

5. The House bill, but not the Senate amendment, prefaces this section by stating it is intended to support a comprehensive system for the acquisition of technology.

The Senate recedes with amendments to: end introductory material with "Such system shall include—"

"(1) National leadership with respect to the need for, and the provision of, appropriate technology-enhanced curriculum, instruction and administrative programs to improve learning in the United States, and to promote equal access for all students to educational opportunities in order to achieve the National Education Goals by the year 2000;

(2) Funding mechanisms which will support the development, interconnection, implementation, improvement and maintenance of

an effective educational technology infrastructure, including activities undertaken by the State and local school districts to promote and provide equipment, training for teachers and library media personnel, and technical support;

(3) Support for technical assistance, professional development, information and resources dissemination, in order to help States, local school districts, teachers, library media personnel, and administrators successfully integrate technology into kindergarten through 12th grade classrooms and library media centers;

(4) Support for the development of educational and instructional programming in core subject areas, which programming shall address the National Education Goals;

(5) Strengthening and building upon, but not duplicating, existing telecommunications infrastructures dedicated to educational purposes;

(6) Development and evaluation of new and emerging educational technologies, telecommunications networks, and state-of-the-art educational technology products that promote the use of advanced technologies in the classroom and school library media center;

(7) Assessment data regarding state-of-the-art uses of technologies in United States education upon which commercial and non-commercial telecommunications entities, and governments can rely on for decision-making about the need for, and provisions of, appropriate technologies for education in the United States;

(8) Ensuring that uses of educational technology are consistent with the overall national technology policy established by the President, and ensuring that Federal technology-related policies and programs will facilitate the use of technology in education;

(9) Ensuring that activities supported under this part will form the basis for sound State and local decisions about investing in, sustaining, and expanding uses of technology in education;

(10) Establishing working guidelines to ensure maximum interoperability nationwide and ease of access for the emerging technologies so that no school system will be excluded from the technological revolution; and

(11) Ensuring that, as technological advances are made, the educational uses of these advances are developed."

6. The House bill emphasizes support for national leadership in technology for curricula, instruction and administrative support; the Senate amendment emphasizes support for technology to promote equal educational access to achieve the National Goals.

The Senate recedes with amendments. See note 5.

7. The House bill emphasizes support for funding mechanisms to build the technology infrastructures; the Senate amendment emphasizes funds for equipment, training and support.

The Senate recedes with amendments. See note 5.

8. The House bill emphasizes support to build dissemination networks for educators; the Senate amendment emphasizes support for technical assistance, professional development, and dissemination on integrating technology into classrooms.

The House recedes with amendments. See note 5.

9. The House bill emphasizes support for training for educators and administrators; the Senate amendment emphasizes support to develop programs in the core subjects.

The House recedes with amendments. See note 5.

10. Similar provisions to support strengthening existing infrastructures, but the Senate amendment also emphasizes that incompatible systems must be discouraged.

The Senate recedes with amendments. See note 5.

11. The House bill emphasizes support to develop and evaluate new technologies; the Senate amendment emphasizes support for creative partnerships which develop state-of-the-art products.

The Senate recedes with amendments. See note 5.

12. The House bill emphasizes support for assessments of new technologies; the Senate amendment emphasizes that the uses of funds be consistent with national technology policy.

The Senate recedes with amendments. See note 5.

13. The House bill, but not the Senate amendment, notes the purpose is to authorize grants for four types of activities.

The Senate recedes with an amendment to strike 8 (A), (B), and (C) and move (D) to purposes.

#### Definitions

14. The House bill, but not the Senate amendment, defines "library" and "State library administrative agency".

The Senate recedes.

15. The House bill, but not the Senate amendment, defines "regional educational laboratory."

The Senate recedes.

16. The House bill defines the term "technology" similar to that of the Senate amendment, but the House includes "public telecommunication entities", when the Senate amendment includes "educational television and radio programs and services"; and only the Senate amendment applies the term to "state-of-the-art" technology products.

The House recedes.

17. The House bill, but not the Senate amendment, defines "credit enhancement."

The House recedes.

18. The House bill defines "interoperability" as the ability to communicate with global systems and multiple media; the Senate amendment defines it in terms of the ease of connecting to and exchanging data with hardware and software.

The House recedes.

19. The Senate amendment, but not the House bill, defines "all students."

The House recedes.

20. The Senate amendment, but not the House bill, defines "information infrastructure."

The House recedes.

21. The Senate amendment, but not the House bill, defines instructional programming."

The House recedes.

22. The Senate amendment, but not the House bill, defines "local educational agency."

The Senate recedes.

23. The Senate amendment, but not the House bill, defines "office."

The Senate recedes.

24. The Senate amendment, but not the House bill, defines "public telecommunication entity."

The House recedes.

25. The Senate amendment, but not the House bill, defines "State educational agency." The Senate amendment, but not the House bill defines "adult education."

The House recedes.

#### In-State Apportionment

26. The House bill, but not the Senate amendment, requires that of the amount

provided through formula to the states, 70% be used by the State for elementary and secondary education programs, 20% be used for higher education programs, and 10% be used for library and literacy programs.

The House recedes.

27. The House bill limits administrative and technical assistance costs in each of the three in-state funding streams as follows: a maximum of 10% of the 70% amount reserved for school programs may be used at the state level with a maximum of 5% of the total at the local level; a maximum of 10% of the 20% reserved for higher education programs; and a maximum of 10% of the 10% for library programs. The Senate amendment limits State administrative and technical assistance costs to 5% of the total funds received.

The House recedes.

#### Elementary and Secondary Education Programs

28. The House bill titles the sections, "elementary and secondary education program"; the Senate amendment titles the section "state and local programs for school technology resources, technical support, and professional development."

The House recedes.

29. The House bill requires in general that funds made available for elementary and secondary education (70% of the total state grant) be used to strengthen programs in accordance with the section; the Senate amendment provides a "statement of purpose" that funds be used to support acquisition, support and maintenance of equipment and regional consortia.

The Senate recedes. The section number should be changed by legislative counsel.

30. The Senate bill authorizes the Secretary to award grants to states having a systemic statewide plan for the purpose of assisting local education agencies in such things as purchasing technology, providing for training and providing for administrative and technical support. The comparable provision of the House bill, section 2209, requires each state educational agency to file an educational technology plan which meets a variety of requirements such as, showing how the plan is integrated with the State's Goals 2000 plan or Title I plan and how it addresses each of the elements specified under "contents", such as a description of how financial assistance will be provided. (See note #37 for comparable House bill provisions.)

The House recedes with several amendments:

Insert the following after "a systematic statewide plan that"—

"Outlines long-term strategies for financing technology education in the State and describes how business, industry, and other public and private agencies, including libraries, library literacy programs, and institutions of higher education, can participate in the implementation, ongoing planning, and support of the plan and"

Insert "other" before "criteria"

Insert "carry out activities such as" on page 109 at the end of the introductory paragraph.

On page 110, at the end of (H), insert "and (I) establish partnerships with private or public educational providers or other entities to serve the needs of children in poverty."

31. The House bill requires each LEA to use funds for using technology to support school reform and requires that all projects be of a sufficient scope to make improvements; the Senate amendment allows the LEA to use funds to acquire connectivity linkages and for professional development.

The Senate recedes with an amendment to add (1), (2), and (3) to the House language as

(C), (D), and (E); add "", particularly with institutions of higher education and public libraries." at the end of (E); and insert "(I) establish partnerships with private or public educational providers or other entities to serve the needs of children in poverty."

32. Both bills require that each LEA applicant submit a plan to the SEA which, in the House bill, must be a part of any LEA plan submitted under Goals 2000, and which in the Senate amendment must be consistent with the objectives of the statewide plan. The further requirements of the House bill include describing the coordination efforts with all available resources, the support of state and local content and performance standards, the support of the disabled population, the support of professional activities and the involvement of parents. The further requirements of the Senate amendment include the development of a strategic, long range plan which describes technologies to be acquired and how they will be integrated, collaborative and coordinating activities, professional development activities, and the involvement of the community in the development of the plan."

The House recedes.

33. The House bill, but not the Senate amendment, provides for the formation of consortia.

The Senate recedes.

34. The Senate amendment, but not the House bill, provides that the LEA plan described in the previous subsection, shall not preclude the SEA from approving other comprehensive education improvement plans which further the purposes of this section.

The House recedes.

#### Higher Education Programs

35. The House bill, but not the Senate amendment, authorizes competitive grants to institutions of higher education, (funded through the 20% reserve from the total available through the State grant) which have entered into an agreement with a local educational agency to provide professional development.

The House recedes.

#### Library and Literacy Programs

36. The House bill, but not the Senate amendment authorizes competitive grants to local public libraries, (funded through the 10% reserve from the total available through the State grant) which are involved with a local educational agency.

The House recedes.

#### Educational Technology Plans

37. The House bill requires that each State wishing to receive funds under this section submit to the Secretary a 5-year State educational technology plan, which, if rejected, must be provided technical assistance. (See note #372 for comparable Senate provision.)

The House recedes.

The Senate recedes on the "supplement, not supplant" language on (5), page 124.

38. The House bill requires that each LEA wishing to receive funds under this section submit to the SEA a 3-year plan which describes evaluations activities, supports local and State curriculum frameworks, provides for technical support and parent involvement. (See note #374 for comparable Senate and additional House provisions.)

The House recedes.

#### Federal Administration

39. The House bill, but not the Senate amendment, requires the Secretary to develop and use evaluation procedures for programs under this Title.

The Senate recedes with an amendment to the evaluation paragraph stating that the

evaluation should be consistent with section 10701.

40. The Senate amendment, but not the House bill, requires each SEA to identify LEAs which have the highest poverty and the greatest need for technology in order to offer them assistance.

The House recedes.

41. The Senate amendment, but not the House bill, requires SEAs to award grants to LEAs competitively and of sufficient size, scope and duration.

The House recedes.

#### Allocation of funds

42. The House bill requires that up to 1% be reserved for Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Trust territories and programs for Indian students, with the remainder of the funds distributed to states based on a formula that takes into account the relative number of children aged 5 to 17 in a state combined with the relative number of poor children aged 5 to 17 in a state; the Senate amendment allocates funds to States based on the proportionate amount each state received under part A of Title I, and with no state receiving less than .5% of the total appropriated.

The House recedes.

43. The house bill, but not the Senate amendment, provides for the reallocation of unused funds.

The Senate recedes.

44. The Senate amendment, but not the House bill, provides that if in any year the appropriation for this section is \$50m or less, the Secretary is required to award grants to LEAs competitively.

The House recedes with the following amendments: change the threshold to \$75 million; strike everything after "to" to line 5 of Senate bill and add "consortia which shall include at least one LEA with a high percentage or number of children counted for purposes of Part A, Title I of this Act, and may include other LEAs, SEAs, IHES, businesses, academic content experts, software designers, museums, libraries, or other appropriate entities. In awarding such grants, the Secretary will give priority to consortia which demonstrate that—

(1) The project is designed to serve areas with a high number or percentage of disadvantaged students or the greatest need for educational technology;

(2) The project will directly benefit students by, for example, integrating the acquired technologies into curriculum to help the local educational agency enhance teaching, training, and student achievement;

(3) The project will ensure ongoing, sustained professional development for teachers, administrators, and school library media personnel served by the LEA to further the use of technology in the classroom or library media center;

(4) The project will ensure successful, effective and sustainable use of technologies acquired under this section;

(5) Members of the consortia or other appropriate entities will contribute substantial financial and other revenues to achieve the totals of the project.

#### Authorization of Appropriations

45. The House bill authorizes \$300m in fiscal year 1995, with such sums for fiscal years 1996 through 1999; the Senate amendment authorizes \$200m in fiscal year 1995, with such sums for the remaining 4 years.

The House recedes.

#### Research—National Programs

46. The House bill names the subpart, "Research, Development and Demonstration of

Educational Technology"; the Senate amendment names it "National Programs in Technology for Education."

The House recedes.

47. The House bill, but not the Senate amendment, provides a section on findings.

The House recedes.

#### Purposes

48. Both bills state the overall purpose is to facilitate achievement of the national education goals, but the House bill also adds "increase the opportunity for all students to achieve."

The House recedes and the Senate recedes with an amendment to add this to general purposes.

49. The House bill emphasizes its purposes as promoting awareness, supporting state and local efforts, demonstrating uses, applying research in technology to policy decisions, promoting professional development, and incorporating technological advances into education; the Senate amendment emphasizes creating a national vision, promoting awareness, support state and local efforts, demonstrating uses, applying research to policy decisions, promoting professional development, supporting development of technology-enhanced instruction, and promoting the use of technology in federal programs.

The House recedes and the Senate recedes with an amendment to add this to general purposes.

#### Office

50. The House bill, but not the Senate amendment, creates an Office of Educational Technology within the Department of Education.

The House recedes.

#### National Long-Range Plan

51. The House bill requires that the Secretary publish a plan by September 30, 1995; the Senate amendment requires it by within 12 months of date of enactment.

The House recedes.

52. Identical provisions with respect to development of the plan, except that the House bill uses the term, "educational applications of technology", when the Senate amendment uses, "applications of technology to education", and only the Senate amendment requires the inclusion of distance learning consortia and Star School recipients.

The House recedes.

53. Identical provisions, except that the House bill applies the word, "challenging" to "standards", whereas the Senate amendment applies the word, "content" and "performance" to "standards".

The House recedes.

54. Similar provisions concerning joint activities, except that only the Senate amendment includes the Office of Science and Technology Policy and the Bureau of Indian Affairs.

The House recedes.

55. Identical provisions regarding the contents of the plan, except that the Senate amendment also requires the Secretary to show how he will promote: higher achievement through the integration of technology, the exchange of information, and the use of evaluations to improve the purposes of this subsection. In addition, the House bill uses the term, "schools with high concentrations of children from low-income families" when the Senate amendment uses, "schools with a high number or percentage of children from low-income families."

The House recedes.

#### Federal Leadership

56. The House bill authorizes the Secretary, in consultation with the National

Science Foundation, the Department of Commerce and "other federal agencies" to provide grants and contracts to a variety of entities; the Senate amendment does the same, but notes the goal of promoting "higher student achievement" and names many more federal agencies.

The Senate recedes with amendments to insert "the United States National Commission on Libraries and Information Sciences" after "Department of Commerce", to insert "competitively and" after "grants" and to strike the parentheses.

57. The Senate amendment, but not the House bill, requires the Secretary to provide assistance to States in developing State technology plans, in accordance with the Goals 2000 Act.

The House recedes.

58. Identical provisions, except the House bill uses the phrase, "consistent with", where the Senate bill uses "to achieve".

Legislative counsel.

59. Identical provisions, except the House bill "allows" the Secretary, and the Senate "requires" the Secretary to use funds for such activities.

The House recedes with an amendment changing "including" to "such as".

60. The House bill, but not the Senate amendment, includes under uses of funds, planning grants to States.

The House recedes.

61. Identical provisions with technical conforming differences.

Legislative counsel.

62. Identical provisions, except only the House bill includes "family education" among those listed.

The Senate recedes.

63. Identical provisions, except the House bill uses the term "protocols", when the Senate amendment describes the same with "maximum interoperability, efficiency and easy exchange of data."

The House recedes.

64. Identical provisions, except only the Senate bill includes the term "multimedia."

The House recedes.

65. Identical provisions, except only the Senate amendment adds that a priority be given to such research in elementary and secondary schools.

The Senate recedes.

66. The Senate amendment, but not the House bill, lists as one of the uses of funds, a biennial assessment on the uses of technology.

The House recedes.

67. Identical provisions, except only the House includes the concept of "access to and use of" in promoting gender equity.

The Senate recedes.

68. The House bill, but not the Senate amendment, lists as one of the uses, development of the Buddy System. (Senate amendment authorizes a separate program for the Buddy System Computer Education—Title III, Part F.)

The Senate recedes with an amendment to add a reference to "Buddy System Computer Education" to FIE.

69. The Senate amendment, but not the House bill, lists as one of the uses, federal agency collaboration.

The House recedes.

70. The Senate amendment, but not the House bill, requires that the activities be carried out by grant contract, competitively and through peer review.

The Senate recedes.

71. Identical provisions with technical differences.

Legislative counsel.

72. Identical provisions, except the House bill uses the phrase "recipient's project" when the Senate amendment uses "grant or contract."

Legislative counsel.

#### Authorization of Appropriations

73. The House bill authorizes "such sums" from fiscal year 1995 through fiscal year 1999; the Senate amendment authorizes \$5m in fiscal year 1995 and "such sums" for the remaining four years.

The House recedes and the Senate recedes.

#### Regional Technical Support and Professional Development

74. The Senate amendment, but not the House bill, authorizes an appropriation of \$50m for grants or contracts to be awarded to regional educational technology assistance consortia made up of some combination of SEAs, institutions of higher education and non-profit organizations.

The House recedes with an amendment to replace the "Authority" paragraph with the following:

The Secretary, through the Office of Educational Technology, shall make grants in accordance with the provisions of this section, to regional entities such as the Eisenhower Math/Science Regional Consortia, the Regional Education Laboratories, the Comprehensive Regional Assistance Centers, or such other regional consortia as may be designated or established by the Secretary. In awarding grants under this section, the Secretary shall give priority to the Eisenhower Math/Science Regional Consortia and shall ensure that each geographic region of the United States shall be served by such a consortium.

The Senate recedes on the Special Rule on page 159.

The conferees also agree to the following amendments:

Insert "to the extent practicable" at the end of the Technical Assistance paragraph after "shall" in Sec. 3121(b)(1).

Insert "and school library media centers" after "classroom" Sec. 3121(b)(1)(B).

Insert "to the extent practicable" at the end of the Professional Development paragraph after "shall" in Sec. 3121(b)(2).

Insert "school librarians and school library personnel" after the first "teachers" and "and other school library media personnel" after the second "teachers" in Sec. 3121(b)(2)(A)(i).

Strike "provide followup to" in Sec. 3121(b)(2)(E).

Insert "to the extent practicable" at the end of the Information and Resource Dissemination paragraph in Sec. 3121(b)(3).

Insert "regional and other" after "appropriate" in Sec. 3121(b)(4).

Strike Sec. 3121(b)(5).

#### Research on Educational Applications of Advanced Technologies

75. The Senate amendment, but not the House bill, authorizes an appropriation of \$50m for grants or contracts for research projects which develop educational applications of advanced technologies.

The House recedes with an amendment to add the following as a new (D) in Federal Leadership Activities on page 148: "research on, and the development of, applications for education of the most advanced and newly emerging technologies (which research shall be coordinated with the Office of Educational Research and Improvement and, where appropriate, with other Federal agencies)."

#### High Performance Computing and Telecommunications Networks for Education

76. The Senate amendment, but not the House bill, authorizes an appropriation of

\$7.5m for three types of grants which help develop an electronic network program for the dissemination of educational information.

The House recedes with an amendment to add the following as a new (E) in Federal Leadership Activities on page 148 and to reletter accordingly: "(E) the development, demonstration and evaluation of the educational aspects of high performance computing and communications technologies and of the national information infrastructure, in providing professional development for teachers, school librarians and other educators; enriching academic curricula for elementary and secondary schools; facilitating communications among schools, local educational agencies, libraries, parents and local communities and in other such areas as the Secretary deems appropriate."

#### Study, Evaluation and Report on Funding Alternatives

77. The Senate amendment, but not the House bill, requires the Secretary to report to the Congress, within one year of enactment, on alternative models for sustained funding for schools.

The House recedes.

#### Special Rule Applicable to Appropriations

The House recedes with an amendment to change the Subpart title and the section title to "Authorization of Appropriations".

78. The Senate amendment, but not the House bill, requires that if, in any year, the amount appropriated under sections 3122(f), 3123(b)(5), 3124(e), 3125(e), 3126(e), and 3132(c), add up to less than \$50 million, the Secretary shall combine those amounts and apply half of the funding to "National Programs in Technology for Education," and half to the State and local programs; the amendment requires further that when the aggregate appropriation equals or exceeds \$50m, \$25m plus 35% of the aggregate amount in excess of \$50m shall carry out programs under the "National Programs in Technology for Education" and \$25m plus 65% of the total in excess of \$50m shall be used for the State and local programs.

The House recedes with several amendments:

In the "Appropriation of Less Than . . ." section, change \$50,000,000 to \$75,000,000; strike "Notwithstanding any other provision of law"; strike the section references and "aggregate such amounts" and replace with "this part".

Strike the designation of how the funds should be divided and add the following:

\$3,000,000 for National Leadership Activities.

\$10,000,000 for Regional Educational Technology Support and Professional Development.

with remaining funds to be awarded through the National Challenge Grant Program for Technology in Education.

In the "Appropriation Equal To or Greater Than . . ." section, change \$50,000,000 to \$75,000,000; strike "Notwithstanding any other provision of law"; strike the section references and "aggregate such amounts" and replace with "this part".

Strike the designation of how the funds should be divided and add the following:

\$3,000,000 for National Leadership Activities.

\$10,000,000 for Regional Educational Technology Support and Professional Development.

with remaining funds to be awarded through the National Challenge Grant Program for Technology in Education; except that the Secretary may reserve such funds as

may be necessary to meet outstanding obligations for such fiscal year for grants previously awarded through the National Challenge Grant Program for Technology in Education.

To maximize the impact of the funds granted under this act, the conferees intend to allow schools the flexibility to structure transactions for the acquisition of technology and equipment in the manner that most adequately meets their needs, including using grant funds to pay interest on the lease or financed purchase of technology or equipment where a school determines that such a transaction is desirable. This will allow schools the opportunity to take advantage of the lowest interest rates available to them by virtue of the exemption from Federal income tax of interest payments from States and municipalities, extend the impact of the grant monies they receive, and allow them to avoid their frequent need to delay purchases because of current year budget constraints.

#### Part B—Star Schools Program

##### Subpart 3 in H.R. 6/Part B in S. 1513

79. The Senate amendment, but not the House bill, has a short title.

Legislative counsel.

80. The House bill, but not the Senate amendment, has a section of findings.

The Senate recedes.

#### Statement of Purpose

81. The House bill states its purpose is to expand distance learning programs to improve teaching, achieve the education goals, help all students achieve and help educational reform; the Senate amendment states its purpose is to improve subjects and reach underserved populations through grants to telecommunication partnerships which: develop telecommunications facilities, develop programming, and obtain technical assistance.

The House recedes with an amendment changing disabled to individuals with disabilities.

#### Grants

82. The House bill provision, titled, "program authorized", authorizes the Secretary to make grants to develop facilities, to develop instructional programs and to provide technical assistance; the Senate amendment provision, titled, "grants authorized", authorizes the Secretary to provide grants for similar activities, but expands the list of activities to include teleconferencing for teacher training, obtaining technical assistance and coordinating connectivity in order to reach more students.

The House recedes.

83. The Senate amendment requires the grant be for a period of 5 years, with a possible renewable 5-year period. The House bill requires that the grant not exceed 5-years. (Comparable provision in the House bill is on the following page, subsection 2221(c).

The House recedes with an amendment making the renewal period three years.

#### Authorization of Appropriations

84. The House bill authorizes "such sums" for fiscal years 1995 through 1999; the Senate amendment authorizes \$35m in fiscal year 1995, with "such sums" in the following 4 years.

The House recedes.

85. The Senate amendment, but not the House bill, requires funds remain available until expended.

The House recedes.

86. The House bill limits the size of a grant to \$10m per year; the Senate amendment limits it to \$5m.

The Senate recedes.

87. Identical provisions with technical differences.

Legislative counsel.

88. The Senate amendment, but not the House bill, requires that at least 25 percent be used for facilities and equipment.

The Senate recedes.

89. Identical provisions with technical differences.

Legislative counsel.

90. The House bill limits the federal share of the cost of any project to 75 percent in the first year and lesser amounts in subsequent years; the Senate amendment limits the federal share to 75 percent in all years.

The Senate recedes.

91. Similar provisions regarding waivers, except the House bill ties the waiver to "financial hardship", and the Senate amendment ties it to "good cause."

The Senate recedes.

92. The House bill, but not the Senate amendment, authorizes the Secretary to accept funds from other agencies.

The Senate recedes.

93. The Senate amendment, but not the House bill, provides for coordination with other agencies.

The House recedes.

94. The Senate amendment, but not the House bill, encourages that funds be used for closed captioning and descriptive video.

The House recedes.

#### Eligible Entities

95. The House titles the section, "eligible entities"; the Senate amendment titles it, "eligible telecommunication partnerships."

The House recedes.

96. The House bill requires that the recipient include the participation of at least one local educational agency and provides a list of entities that may be included; the Senate amendment requires a partnership which must consist of one or more of the entities listed.

The Senate recedes.

97. The House bill describes as an eligible entity a telecommunications network made up of two or more entities that are listed; the Senate amendment describes the same for a "partnership", but requires that it be made up of 3 or more of the listed entities, which are identical to those listed in the House bill, except the House bill also adds "adult and family education programs" and "public or private elementary or secondary schools."

The House recedes on the number and the Senate recedes on the list.

98. The Senate amendment, but not the House bill, requires state partnerships.

The House recedes.

#### Applications

99. Identical provisions with technical differences.

Legislative counsel.

100. Similar provisions regarding applications, but the headings differ.

Legislative counsel.

101. The House bill, but not the Senate amendment requires a description of how the project will help achieve the national education goals.

The Senate recedes with an amendment to strike the Goals 2000 reference.

102. Identical provisions with technical differences.

Legislative counsel.

103. Identical provisions, but only the House bill adds, "district, multidistrict" and only the Senate amendment adds "maintenance and operation."

The House recedes.

104. Identical provisions, with technical difference concerning structure.

Legislative counsel.

105. Identical provisions, except only the Senate amendment includes "training."

The House recedes.

106. Identical provisions, except only the House bill includes "and related" programming.

The Senate recedes.

107. Identical provisions, except the Senate amendment requires this provision only in the case of applications for assistance for instructional programming and includes "classroom teachers".

The House recedes.

108. Similar provisions, but the House bill lists six disciplines and the Senate amendment lists three.

The Senate recedes.

109. Identical provision, but the House bill uses the term "professional development" for the Senate amendment's term "training."

The Senate recedes.

110. Identical provisions, but the House bill uses the terms "historically underserved", "low-income families" and "low literacy skills", for the Senate amendment's terms, "traditionally underserved", "disadvantaged" and "illiterate."

The Senate recedes.

111. The House bill, but not the Senate amendment, includes how existing facilities will be used.

The Senate recedes.

112. The Senate amendment, but not the House bill, requires assurances that purchased equipment will be protected.

The House recedes.

113. Identical provisions with technical differences. (See Section 2223(b)(2), note #125, for comparable House provision.)

Legislative counsel.

114. The Senate amendment, but not the House bill, requires assurances that funds will supplement, not supplant other funds.

The House recedes.

115. The Senate amendment, but not the House bill, requires consortia to describe coordination.

The House recedes.

116. Identical provisions, except the Senate amendment includes "including activities and services."

Legislative counsel.

117. Identical provisions, except the Senate amendment includes "training."

Legislative counsel.

118. Similar provisions, except the House builds on the Senate language, extending it to include job training and other social service programs.

The Senate recedes.

119. Similar provisions, except the Senate amendment builds on the House language, extending it to include training materials for students and teachers for interactive distance learning participation.

The House recedes.

120. Similar provisions, but the House bill extends training to early childhood personnel, vocational education personnel and adult and family educators, whereas the Senate amendment limits training to early childhood development and Head Start personnel.

The Senate recedes.

Identical provisions, except that the Senate amendment does not include the phrase, "at times other than the regular school day."

The House recedes.

121. The Senate amendment, but not the House bill, includes as a separate item vocational education personnel. (See preceding note.)

The Senate recedes.

122. The Senate amendment, but not the House bill, includes training on content standards.

The House recedes.

123. The Senate amendment, but not the House bill, includes parent education.

The House recedes.

124. The House bill, but not the Senate amendment, includes a description of future financing.

The Senate recedes.

125. Identical provisions with technical differences. (See section 3205(b)(7), note #113, for comparable Senate provisions.)

Legislative counsel.

126. The House bill requires applicants to provide information as required by the Secretary; the Senate amendment requires "additional assurances" as the Secretary may require.

Legislative counsel.

127. Both have identical phrases, but the House bill establishes "priorities" as its heading; the Senate amendment establishes "approval of applications; priorities" as its heading and includes the word "demonstrate" in the lead-in phrase.

Legislative counsel.

128. The House bill, but not the Senate amendment, has as a priority that plans should assist in achieving the national education goals.

The Senate recedes with an amendment striking the Goals 2000 reference.

129. The House bill, but not the Senate amendment, has as a priority for services to adults.

The House recedes with an amendment striking the clause beginning with "including" and ending with "title I" and adding "programs serving adults, especially parents with low levels of literacy" before "institutions of higher education".

130. Similar provisions regarding a priority for schools with a high number of poor children, but the Senate amendment also emphasizes serving the broadest range of institutions.

The Senate recedes.

131. The Senate amendment, but not the House bill, provides a priority to applications emphasizing math, science and foreign language.

The Senate recedes.

132. The Senate amendment, but not the House bill, provides a priority to applications with involvement of educational institution, state and local government, and industry.

The Senate recedes.

133. The Senate amendment, but not the House bill, provides a priority to applicants in partnership with a significant number of educational institutions.

The Senate recedes.

134. The Senate amendment, but not the House bill, provides a priority to applications which include staff with substantial academic and teaching capabilities.

The House recedes with an amendment placing a period after "development" and deleting the rest of the sentence.

135. The Senate amendment, but not the House bill, provides a priority for partnerships which provide a listed range of resources.

The House recedes.

136. The Senate amendment, but not the House bill, provides a priority for partnerships which serve a multistate area.

The House recedes.

137. The Senate amendment, but not the House bill, provides a priority for partnerships which provide equipment.

The House recedes.

138. The Senate amendment, but not the House bill, provides a priority for donation of equipment or in kind services.

The House recedes.

139. The Senate amendment, but not the House bill, provides a priority to entities which assist individuals who are traditionally underrepresented in the fields of math and science.

The Senate recedes.

140. Similar provisions regarding geographic distribution, except the Senate bill uses the term, "distribution of grants" when the House bill uses the term, "distribution of services" and the House bill adds the phrase "to the extent feasible."

The Senate recedes on "to the extent feasible" and the rest is to be resolved by legislative counsel.

#### *Leadership and Evaluation Activities*

141. The House bill uses the heading, "set-aside"; the Senate amendment uses "reservation."

Legislative counsel.

142. The House bill allows the Secretary to reserve up to 10 percent; the Senate amendment allows not more than 5 percent.

The House recedes.

143. Technical difference.

Legislative counsel.

144. Identical provisions, but the Senate amendment uses a heading and references a subsection and the House bill references Star Schools.

Legislative counsel.

145. Identical provisions, but the House bill references Star Schools when the Senate amendment references "efforts assisted under this part."

Legislative counsel.

146. Similar provisions, except the Senate provision breaks into two phrases the peer review activities.

Legislative counsel.

#### *Definitions*

147. Technical difference in wording.

Legislative counsel.

148. Identical provisions, except only the House bill includes the phrase "for elementary and secondary students, teachers and others" and only the Senate amendment includes the phrase, "resources used in such instruction and training."

The Senate recedes.

149. The Senate amendment, but not the House bill, includes a definition for the term "State."

Legislative counsel unless this is somewhere else in the bill, then it should be deleted.

#### *Administrative Provisions*

150. The Senate amendment, but not the House bill, provides "administrative provisions" applicable to the grant recipients.

The House recedes with an amendment changing five years to three years.

#### *Other Assistance*

151. The Senate amendment, but not the House bill, authorizes the Secretary to provide assistance to other telecommunications networks, which are statewide or local, and which meet certain conditions. Among the activities authorized, are telecommunications programs for continuing education.

The House recedes.

#### DEVELOPMENT OF EDUCATIONAL TECHNOLOGY PRODUCTS

(Title II, Subpart 4 in H.R. 6/Title III, Part A, Sec. 3124 in S. 1513)

152. The House bill, but not the Senate amendment makes this a subpart with a separate heading.

The Senate recedes.

153. The Senate amendment, but not the House bill, includes a second purpose to develop long-term programming.

The House recedes.

154. Similar provisions, but the House bill does not specify the type financial assistance to be provided when the Senate amendment specifies "grants" and the House bill notes the resources are to be used in the classroom or for professional development and the Senate amendment notes the resources should be "curriculum based" and includes "educational radio and television."

The Senate recedes.

155. The House bill, but not the Senate amendment authorizes both grants and loans for this section with certain requirements for each category of assistance.

The Senate recedes.

156. The House bill requires cost sharing, with the amount determined by the Secretary; the Senate amendment allows the Secretary to require cost sharing which must be announced in the federal register.

The House recedes.

157. The House bill requires that a consortium be made up of at least one entity in each of the categories described under (A), (B), (C) or (D); the Senate amendment requires that a consortium be made up of at least one entity in each of two categories described under (A) and may include entities in two other categories described under (B).

The House recedes.

158. The House bill, but not the Senate amendment, requires the Secretary to establish a private sector advisory board.

The House recedes.

159. The House bill gives priority to "programs or systems that"—promote educational excellence, are aligned with standards, can be adapted nationally, converts Defense resources, reduces costs of providing instruction and expands access; the Senate amendment gives priority to "products that are developed"—to be adapted nationally, raise achievement levels, in consultation with teachers and with those designing standards, adapted for adults needing literacy services.

The House recedes with an amendment merging the House and Senate provisions on priorities.

160. Identical provisions, but the House bill includes students "of all ages."

The House recedes.

161. Similar provisions, but the House bill emphasizes training of teachers to integrate technology in the classroom and the Senate amendment emphasizes promoting professional development of teachers and administrators.

The House recedes.

162. Identical provisions, but the House bill includes "piloting" and there are conforming differences.

The House recedes.

163. Identical provisions with conforming differences, and "large" in the House bill, is "significant" in the Senate amendment.

The House recedes.

164. Identical provision, except only the Senate amendment includes, "of products."

The House recedes.

165. The Senate amendment, but not the House bill, requires a description of how

rights will be allocated among consortium participants.

The House recedes.

166. The Senate amendment, but not the House bill, requires a description of contributions and how any revenues from the sale of products will be distributed.

The House recedes.

167. The House bill requires the Secretary to provide for an independent evaluation of programs and for dissemination of useful information; the Senate amendment requires the Secretary to disseminate useful information through a variety of media.

The House recedes with an amendment to merge the House and Senate provisions.

168. The House bill authorizes the Secretary to require royalty payments; the Senate amendment prohibits the Secretary from disallowing financial gain from products and requires profits or royalties received by the SEAs, LEAs, or other non-profits be used to support further development.

The House recedes.

#### *Authorization of Appropriations*

169. Identical provisions with different wording.

Legislative counsel.

#### READY-TO-LEARN TELEVISION

170. The Senate amendment, but not the House bill, authorizes an appropriation of \$30m to fund non-profit entities to produce educational and instructional video programming for preschool and elementary school children and their families.

The House recedes. The committees are aware of the Department of Commerce's National Endowment for Children's Educational Television grant program, established by P.L. 101-437. The committees intend for the Departments of Education and Commerce to share information regarding program activities to achieve better coordination among federally-supported programs for children's educational television programming. The Department of Education is requested to provide expertise on the implementation of National Education Goals 2000 Report as it applies to children's educational television programming.

#### ELEMENTARY MATHEMATICS AND SCIENCE EQUIPMENT PROGRAM

(Title III, Part D)

171. The Senate amendment, but not the House bill, authorizes an appropriation of \$30m to provide State educational agencies, through a formula driven program, funds to be distributed to LEAs for purchasing equipment and materials for math and science programs in schools.

The House recedes.

#### TELECOMMUNICATIONS DEMONSTRATION PROJECT FOR MATHEMATICS

The Senate amendment, but not the House bill, includes a program which provides grants to telecommunications entities.

The House recedes.

#### Part ?? Library Media Program

172. The House bill part is entitled "Library Media Program" while the Senate amendment part is entitled "Elementary and Secondary School Library Media Resources Program."

The House recedes.

#### *Establishment of Program*

173. The House bill section is entitled "Establishment of Program" while the Senate amendment section is entitled "Program Authorized."

Legislative counsel.

174. The House bill authorizes the Secretary to "award grants from allocations

under section 2232 to States" whereas the Senate amendment authorizes the Secretary to "award grants or make allocations" in accordance with this part.

Legislative counsel.

#### Allocation to States

175. The House bill section is entitled "Allocation to States" while the Senate amendment section is entitled "Funding Requirements."

Legislative counsel.

176. The House bill authorizes funds for the library program in section 2205, (this is an incorrect citation in the bill—it should be 2235) at \$200 million for the first year while the Senate amendment allocates funds for this part from the funds authorized under its technology part, which totals \$200 million in the first year. The Senate amendment specifies that this library program should receive 10 to 20 percent of such funds.

The Senate recedes.

177. Regarding appropriations under \$50 million, the House bill stipulates that grants will be made at the discretion of the Secretary, while the Senate specifies that the Secretary shall award grants to States on a competitive basis.

The House recedes.

178. In the same provisions, the Senate, but not the House provides that grant awards should take into account "the relative economic need of the students to be served."

The House recedes.

179. Regarding appropriations over \$50 million, the House bill provides funds to States to reflect the ratio of what a State receives under section 1122 of title I (this is an incorrect citation) relative to what all States receive under that section. The Senate has a similar provision, however, it is based instead on the title II Eisenhower professional development allocations.

The House recedes.

#### State Plans

180. The House bill states that a State must have a plan including specified provisions in order to receive an "allocation of funds." The Senate amendment provides States with such state plans with "a grant or an allocation of funds."

Legislative counsel.

181. In the state plans, both House and the Senate specify that funds under this part shall be used for acquisition of school library resources. The House bill states that these include "foreign language resources"; the Senate amendment states that these include "books and foreign language resources."

The House recedes.

182. The House bill separates this sentence with a semi-colon after "resources" while the Senate amendment uses a comma.

Legislative counsel.

183. The House bill allows 5% of the funds paid to States for any fiscal year to be used for administration of the State plan while the Senate amendment allows 3% for administration. (The House 5% provision is not consistent with the provision that State must distribute 99% of their funds to LEAs. See note #527.)

The House recedes.

184. The House bill states that a State plan may be submitted as part of a consolidated application. The Senate amendment has no such provision.

The Senate recedes.

#### Distribution of Allocation to Local Educational Agencies

185. The House provides that no less than 99% of the funds made available to States under section 2202 (this is an incorrect cita-

tion and should be 2232) shall be distributed to LEAs. (This is not consistent with the provisions that the State may keep up to 5% of funds allocated to it for administration. See note #525.)

The Senate provides that no less than 97% of the funds allocated to States under this part shall be distributed to LEAs on the same basis as are the funds under section 2122 (the allocation of funds under the Senate amendment Technology part).

The House recedes.

186. The House bill, but not the Senate amendment, distributes funds passed on relative enrollments of elementary and secondary school students, providing a higher allotment per pupil to LEAs with a high number or percentage of students who impose a higher than average cost per child.

The Senate recedes.

#### Authorization of Appropriations

187. The House bill authorizes \$200,000,000 for this part for FY95 and such sums thereafter. The Senate amendment has not such provision but rather authorizes funds as a percentage of their Technology part authorization.

The Senate recedes.

#### TITLE IV—SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES

1. The House bill uses the terms "part" and "it or its" (when referring to a local educational agency for the second time within a paragraph or subsection. The Senate amendment use the terms "subpart" and "such agency or agencies" (when referring to a local educational agency in similar situations). Also, the Senate amendment uses subsection headings throughout; the House uses them inconsistently. Finally, the House spells out numbers "e.g. three million", the Senate uses Arabic numerals "e.g., 3,000,000".

Legislative counsel.

#### Short title

2. The House bill, but not the Senate amendment, includes a short title.

Legislative counsel.

#### Findings

3. The House bill refers to "Goal Six"; the Senate amendment refers to "the seventh National . . . Goals".

The House recedes.

4. The Senate amendment, but not the House bill, includes the term "and the unauthorized presence of firearms and alcohol".

The House recedes.

5. The House bill, but not the Senate amendment, uses the term "the widespread illegal use of alcohol and other drugs".

The Senate recedes with an amendment striking "other".

6. The House bill, but not the Senate amendment, adds the sentence "Approximately one out of every five high school students now carries a firearms, knife, or club on a regular basis."

The House recedes.

7. The Senate amendment, but not the House bill, adds findings related to violence linked to prejudice and intolerance and the fact that violence and drug abuse have numerous personal and societal roots and, therefore, character education is important.

The House recedes on the findings with respect to prejudice and intolerance. The Senate recedes on the finding concerning character education.

8. The House bill use the terms "drugs" and "by their communities . . ."; The Senate amendment uses the terms "other drugs" and "by such student communities . . .".

The Senate recedes.

9. The House bill, but not the Senate amendment, includes a finding citing the statistics on the widespread use of alcohol among teenagers and its effect.

The Senate recedes.

10. The Senate amendment, but not the House bill, includes a finding relative to alcohol and tobacco being the most widely abused drugs among young people and the consequences of failure to include them in anti-drug abuse education.

The House recedes.

11. The House bill, but not the Senate amendment, uses the term "for the first time".

The House recedes.

12. The House bill uses the term "high school seniors"; the Senate amendment uses the term "secondary school seniors".

The House recedes.

13. The House bill, but not the Senate amendment, includes a finding that the failure to include tobacco in an anti-drug program sends the wrong message as to its acceptability (See Note 10). Also the House bill, but not the Senate amendment, includes a finding on nicotine as an addictive substance.

The House recedes.

14. The House bill use the term "their goals"; the Senate amendment uses the term "the goals".

The House recedes.

#### Purpose

15. The House bill refers to "Goal Six"; the Senate amendment refers to the "seventh National . . . Goal".

The House recedes.

16. The House bill refers to the "illegal use of alcohol and drugs"; the Senate amendment refers to the "illegal use of alcohol, tobacco, and other drugs".

The House recedes with an amendment striking "other".

17. The House bill, but not the Senate amendment, includes local and intermediate educational agencies and consortia as entities eligible for State grants.

The House recedes.

18. The House bill uses the term "education"; the Senate amendment uses the term "education for school dropouts and other high-risk youth".

The Senate recedes.

19. The Senate amendment, but not the House bill, includes "research".

The Senate recedes.

20. The House bill refers to programs in institutions of higher education "for the development and implementation of model programs" to promote the safety of students; the Senate amendment refers to programs in such institutions "to establish, operate, expand, and improve drug and violence prevention, education and rehabilitation referral programs."

The House recedes.

#### Authorization of Appropriations

21. The House bill authorizes \$630,000,000 for State programs for FY 1995 and such sums as may be necessary for each of FYs 1996 through 1999, and \$25,000,000 for the National Programs for FY 1995 and such sums as may be necessary for each of FYs 1996 through 1999, with the money to be available on an advance funded basis and available for expenditure for 18 months; the Senate authorizes \$660,000,000 for FY 1995 and such sums as may be necessary for each of the four succeeding Fiscal Years, with no more than 10% to be reserved for National Programs.

The Senate recedes with an amendment striking the provision concerning the availability of funds.

22. The House bill uses the term "From the amount appropriated . . ."; the Senate amendment uses the term "From the amount available. . .".

Legislative counsel.

23. The House bill uses the term "Palau (until the effective date of the Compact of Free Association with the Government of Palau)"; the Senate amendment uses the term "The Republic of the Marshall Islands, the Federated State of Micronesia, and Palau".

The House recedes.

24. The House bill refers to sections 1124 and 1124A of this act; the Senate amendment refers to section 1122. No substantive difference.

Legislative counsel.

25. The House bill uses the term "as in effect on the day before enactment of the Safe and Drug-Free Schools and Communities Act Amendments of 1994"; the Senate amendment uses the term "as such sections were in existence on the day preceding the date of enactment of the Improving America's Schools Act of 1994".

The House recedes.

26. The House bill states that if the Secretary makes a reallocation, the Secretary "shall" use a specific formula"; the Senate amendment says the Secretary "may" use the given formula.

The Senate recedes.

27. In paragraph (4), the Senate amendment, but not the House bill, places the definition of "State" in a new subparagraph (A) and, in a new subparagraph (B), provides that the term "local educational agency" includes intermediate school districts and consortia.

The House recedes with a conforming amendment substituting the term "education service agencies" for the term "intermediate school districts".

28. The House bill, but not the Senate amendment, requires that the State application for this program be coordinated with its Goals 2000 application, if it has one, or any other State plan applicable to similar programs or efforts.

The House recedes.

29. The House bill requires that the application be developed "in consultation with the chief executive officer" and numerous other officials; the Senate amendment requires that the application "contains assurances that the application was developed in consultation and coordination with appropriate State officials . . . including the chief State school officer" and other officials similar to the House provisions.

The House recedes with an amendment adding "chief executive officer" to the list of officials who must be consulted in the development of the application. The conferees expect that both the chief executive officer and the chief state school officer will consult with each other, as well as with other appropriate officials, in the development of their respective plans for the use of funds under this title. Neither official, however, is authorized to approve the contents of the plan developed by the other. Further, the conferees wish to emphasize that the needs assessment required by Section 5112(a)(1) may be a single needs assessment performed jointly by the chief executive officer and the chief state school officer or it may include separate assessments performed by each official.

30. The House bill, but not the Senate amendment, requires assurance that the State will cooperate in the national evaluation and that the application will include

any other information the Secretary may require.

The Senate recedes.

31. The House bill uses the term "it" when referring to the S.E.A.; the Senate amendment uses the term "such agency".

Legislative counsel.

32. See preceding note.

Legislative counsel.

33. The House bill requires an assurance that the application will contain "a description of how the State educational agency will coordinate its activities under this part with drug and violence prevention efforts of other State agencies"; the Senate amendment requires an assurance the application will contain "a description of how the State educational agency will coordinate such agency's activities under this subpart with the chief executive officer's drug and violence prevention programs under this subpart and with the prevention efforts of other State agencies".

The House recedes.

34. The House bill uses the term "his or her" when referring to the chief executive officer; the Senate amendment uses the term "such officer's".

Legislative counsel.

35. The House bill uses the term "its" when referring to the State; the Senate amendment uses the term "State's".

Legislative counsel.

36. The Senate amendment, but not the House bill, includes the term ". . . in accordance with this subpart." when referring to application approval.

Legislative counsel.

*State and local educational agency programs*

37. The House bill, but not the Senate amendment, contains a caveat on the distribution of State education program funding—see following note.

The House recedes.

38. The House bill, but not the Senate amendment, contains a provision relating to States which have current programs operated by an 'independent State agency (defined)' which commingle Governor's and S.E.A. funds. The provision requires a specific division of the funds with respect to the programs supported and the grants made.

The Senate recedes with amendments which designate independent state agencies in the affected states as the recipients of funds, but requires that such agencies participate on the same basis and with the same allotment of funds as the chief executive officer in other states.

39. The House bill includes ". . . administrators, counselors, coaches and athletic directors, other educational personnel, parents . . ." among those to receive training and technical assistance; the Senate amendment includes ". . . administrators, coaches and athletic directors, other staff, parents . . ." among the same group.

The House recedes.

40. The House bill, but not the Senate amendment, includes the term "(including videotapes, software, and other technology-based learning resources) when describing curriculum materials."

The Senate recedes.

41. The Senate amendment, but not the House bill, includes "making available to [l.e.a.s] cost effective programs for youth violence and drug abuse prevention" as an eligible activity.

The House recedes.

42. The Senate amendment, but not the House bill, includes "training, technical assistance, and demonstration projects to address violence associated with prejudice and intolerance" as an eligible activity.

The House recedes.

43. The House bill uses the term "the evaluation of activities carried out within the State under this part"; the Senate amendment uses the term "evaluation activities required by this subpart."

The Senate recedes.

44. The House bill allows the State educational agency to use 4% for administrative costs; the Senate amendment allows 5% for the same.

The Senate recedes.

45. The House bill uses the term "its" when referring to the S.E.A.; the Senate amendment uses the term "such agency's".

Legislative counsel.

46. The House bill requires a S.E.A. to distribute no less than 92% of funds to l.e.a.s; the Senate amendment requires an S.E.A. to distribute not less than 90% to l.e.a.s.

The Senate recedes with an amendment setting the percentage at 91 per cent.

47. The House bill uses the term "within their boundaries"; the Senate amendment uses the term "within the boundaries of such agencies".

Legislative counsel.

48. The House bill, but not the Senate amendment, requires that to the extent practicable, no less than 25% of the funds available be distributed to rural areas.

The Senate recedes with amendments stipulating that the allocation of funds should be based upon an objective assessment of need and adding local educational agencies in urban areas as entities eligible for the 25 per cent set-aside.

49. The Senate amendment, but not the House bill, includes the term ". . . in the State . . ." when referring to L.E.A.S.

Legislative counsel.

50. The House bill uses the term "such factors as"; the Senate amendment uses the term "factors such as".

The House recedes with an amendment to strike "factors" and insert "objective data".

51. The Senate amendment, but not the House bill, adds "high incidence of violence associated with prejudice and intolerance" to the factors to be considered in the distribution of supplemental funding.

The House recedes.

52. The House bill, but not the Senate amendment, includes a provision on the return of unused or unneeded funds to State educational agencies and the reallocation of such funds.

The Senate recedes with an amendment striking "intermediate educational agency"

53. The House bill, but not the Senate amendment, reserves 10% of the Governor's fund for the DARE program required under the House bill. The Senate recedes with amendment to add a new provision entitled Law Enforcement Education Partnerships which keeps the reservation and allows it to be used for law enforcement agencies win consortia with LEAs or community-based agencies to carry out drug abuse and violence prevention activities.

54. The House bill uses the term "no more than five percent of the 20 percent of the total amount described in paragraph (1) for the administrative costs"; the Senate amendment uses the term "not more than 5% of the amount reserved under subsection (a)(1) for the administrative costs".

Legislative counsel.

55. The House bill, but not the Senate amendment, requires the establishment of a State advisory panel to assist the chief executive officer and the S.E.A. in administering funds and programs under this authority. The provision stipulates makeup, duties and

the requirement that the panel devise a statewide plan for programs to be carried out by both the Governor and the S.E.A. Meetings, political affiliation and compensation are also prescribed.

The House recedes.

56. The House bill requires that in making certain grants, the chief executive officer provide services to certain groups; the Senate amendment requires that in making similar grants, priority be given to serving a similar group (see next note).

The House recedes with an amendment requiring the chief executive officer to undertake special outreach efforts to seek the involvement of community-based agencies in low-income communities.

57. The Senate amendment, but not the House bill, adds "pregnant and parenting teenagers" to the group to be served by grants from the chief executive officer.

The House recedes.

58. The House bill references subsection (c); the Senate amendment references subsection (b).

The House recedes.

59. The House bill uses the term "education, early intervention, counseling, or rehabilitation referral" when discussing training; the Senate amendment uses the term "comprehensive health education, early intervention, pupil services, or rehabilitation referral" when referring to the same activity.

The House recedes.

60. The House bill refers to "vocational and job skills training, law enforcement, health, mental health, and other appropriate services, when referring to coordination of services; the Senate amendment refers to "vocational and job skills training and placement, law enforcement, health, mental health, community service, mentoring and other appropriate services" when referring to the same activity.

The House recedes.

61. The Senate amendment, but not the House bill, includes before and after school activities, professional development workshops, activities to prevent and reduce violence associated with prejudice and intolerance, as eligible activities.

The House recedes with an amendment striking "professional development workshops for teachers and curricula" and inserting in lieu thereof "activities".

62. The Senate amendment, but not the House bill, includes age appropriate programs to prevent child abuse and community service and service learning as eligible activities.

The House recedes with an amendment to strike child abuse prevention activities and clarify that service-learning activities should encourage drug- and violence-free lifestyles.

63. The House bill, but not the Senate amendment, requires a specific DARE program required under the House bill. The requirement includes specific programmatic and administrative provisions.

The Senate recedes with an amendment reserving 10% of the Governor's funds for law enforcement partnership activities, which may include Project DARE.

64. The House bill uses the term "an allocation"; the Senate amendment uses the term "a distribution".

Legislative counsel.

65. The Senate amendment, but not the House bill, includes "pupil services personnel" among the groups to be consulted in the development of a local application.

The House recedes.

66. The House bill uses the term "including community service and service learning projects, and the agencies that administer them" when referring to how best to coordinate programs; the Senate uses the term "and the agencies that administer such programs, projects, and activities".

Legislative counsel.

67. The House bill uses the term "an assessment of the current use (and consequences of such use) of alcohol, tobacco, and controlled, illegal, addictive or harmful substances" when describing application requirements; the Senate amendment uses the term "a description of the current alcohol, tobacco and other drug problems" when setting forth the same requirement.

The Senate recedes with an amendment striking assessment and inserting in lieu thereof "objective analysis".

68. The House bill, but not the Senate amendment, requires the l.e.a. to show how this application is coordinated with the State or local GOALS 2000 plan, if such exists.

The House recedes with an amendment to include the following: (A) how that plan is integrated with other plans under this Act, the Goals 2000: Educate America Act or other Acts, as appropriate consistent with the General Provisions governing this Act.

69. The House bill, but not the Senate amendment, requires the l.e.a. to know how this program is tied to a comprehensive plan for programs carried out under this authority.

The House recedes.

70. The House bill refers to the specific provisions allotting funds to an l.e.a.; the Senate makes a generic reference to the "distribution under this subpart".

Legislative counsel.

71. The House bill allows a process other than peer review in the review of application by the S.E.A.; the Senate amendment requires the use of a peer review process.

The Senate recedes.

72. The House bill, but not the Senate amendment, requires an S.E.A. to consider the extent a l.e.a. application supports the GOALS 2000 plan of a State when it reviews a l.e.a. application.

The House recedes with an amendment to include the following: "and the extent to which it is integrated with other plans under this Act, the Goals 2000: Educate America Act or other Acts, as appropriate consistent with the General Provisions governing this Act."

73. The House bill uses the term "use of funds allotted"; the Senate amendment uses the term "use of funds distributed."

Legislative counsel.

74. The House bill, but not the Senate amendment, in discussing S.E.A. disapproval of an l.e.a. application, says that it may be done to further the GOALS 2000 plan of the State, except that an l.e.a. must be afforded an opportunity to appeal such disapproval.

The Senate recedes with an amendment striking the reference to Goals 2000.

75. The House uses the term "needs assessments"; the Senate uses the term "needs".

The House recedes.

76. In paragraph (1), the House bill refers to "drug prevention and education programs." The Senate amendment refers to "drug prevention and comprehensive health education programs".

The Senate recedes.

77. The House includes "counseling" under programs authorized; the Senate includes "pupil services" instead.

The House recedes.

73. The Senate amendment, but not the House bill, includes "tobacco" in the description of comprehensive strategies.

The House recedes.

74. The House bill uses the term "sexual harassment"; the Senate amendment uses the term "sexual harassment and abuse, and victimization associated with prejudice and intolerance".

The House recedes.

75. The House bill, but not the Senate amendment, includes "student pledges to renounce the use of violence, student non-violence awareness days, student outreach efforts against violence, anti-crime youth councils (which work with school and community-based organizations to discuss and develop crime prevention strategies)" under violence prevention activities.

The Senate recedes with an amendment to strike the references to student pledges and to student nonviolence awareness days and to add "and abuse" after "sexual harassment".

81. The Senate amendment, but not the House bill, includes character education programs.

The House recedes with an amendment stipulating the character education may be one component of a comprehensive drug and violence prevention program.

76. The Senate amendment, but not the House bill, includes "safe zones of passage" programs.

The House recedes.

77. The House bill, but not the Senate amendment, allows for the payment of up to 1/2 of the cost of minor remodeling to promote security and reduce the risk of violence.

The House recedes.

78. The Senate amendment, but not the House bill, includes reimbursement of law enforcement authorities and professional development workshops on alternatives to violence as allowable activities.

The House recedes with amendments striking the provision with respect to the reimbursement of law enforcement authorities and the term "workshops".

79. The House bill limits expenditures on remodeling and safety devices to no more than 33% of the funds received under the program; the Senate amendment limits the expenditures for safe passage zones, safety devices, and reimbursement of law enforcement authorities to not more than 10% of the funds received under the program.

The House recedes with an amendment setting the limitation at 20 per cent.

80. The House bill, but not the Senate amendment, stipulates that past expenditures for comprehensive health activities funded by this program will be deemed to have been allowable.

The Senate recedes.

The Conferees wish to make plain that this provision should be widely interpreted, that it covers all questions dealing with percentage of costs covered with funds received under this Act and that it pertains to all fiscal years since the inception of the Act.

81. The Senate amendment, but not the House bill, stipulates that funds under this program may be used for safe passage programs, safety devices and reimbursement of law enforcement authorities only if funds for such purposes are not received from other Federal agencies.

The House recedes.

#### *Evaluation and Reporting*

82. In subsection (a), the Senate amendment, but not the House bill, places the National Impact Evaluation provision in a

paragraph (1) headed "BIENNIAL EVALUATION" and provides that the evaluation also cover "other recent and new initiatives to combat violence in schools".

The House recedes.

83. The Senate amendment requires the collection by the Secretary of National information and data. Further, the House bill requires a submission of a report every three years by the State educational agency; the Senate amendment requires a report on the same timeline from the Chief executive officer, in cooperation with the State educational agency.

The House recedes with an amendment requiring that such data be collected by the National Center for Education Statistics.

84. The Senate amendment, but not the House bill, requires that the report include activities funded under the Governor's program.

The House recedes.

85. The Senate amendment, but not the House bill, requires the report to include information on progress in meeting the goals under the Governor's program.

The House recedes.

#### Programs for Hawaiian Natives

86. The Senate amendment, but not the House bill, included the term "to carry out this section".

The House recedes with an amendment making the term "native Hawaiians" instead of "Hawaiian natives".

87. The House bill uses the term "this"; the Senate amendment uses the term "this title"—probably a mistake in the House bill.

Legislative counsel.

#### National Programs

##### Federal Activities

88. The Senate amendment, but not the House bill, includes the Chair of the Ounce of Prevention Council among the individuals with whom the Secretary consults relative to Federal Activities.

The House recedes.

89. The House bill uses the term "preschool through postsecondary"; the Senate amendment uses the term "prekindergarten through postsecondary".

The Senate recedes.

90. The House bill, but not the Senate amendment, requires that demonstration and evaluations of innovative approaches be of programs carried out in cooperation with other Federal agencies.

The House recedes.

91. The Senate amendment, but not the House bill, authorizes coordinated research programs.

The Senate recedes.

92. The House bill, but not the Senate amendment, authorizes the provision of information for distribution through the clearinghouse on alcohol and drug abuse information, the development, dissemination and implementation of programs to promote the safety of students in institutions of higher education, and the development of curriculum regarding child abuse training and prevention.

The Senate recedes with an amendment striking the provisions concerning students attending institutions of higher education.

93. The Senate amendment, but not the House bill, stipulates that the evaluations be in accordance with section 10701.

The House recedes.

94. The House bill uses the phrase "developing and disseminating drug and violence prevention materials, including video-based projects and model curricula"; the Senate amendment uses the phrase "the develop-

ment of education and training programs, curricula, instructional materials and professional training and development for preventing and reducing the incidence of crimes and conflicts motivated by hate in localities most directly affected by hate crimes."

The Senate recedes with an amendment adding the development of education and training programs designed to prevent hate crimes as an eligible activity.

95. The Senate amendment, but not the House bill, authorizes developing and disseminating materials and curricula—see preceding NOTE.

The Senate recedes.

#### Grants to Institutions of Higher Education

96. The Senate amendment, but not the House bill, authorizes grants to institutions of higher education for drug and violence prevention programs for students enrolled in such institutions.

The House recedes with an amendment to add "other drugs by such students" on line 2 of section 5122.

Such report on model programs shall be coordinated with the report required under sec. 204(a)(4)(B) of Public Law 101-542, the Student Right to Know and Campus Security Act of policies, procedures, and practices which have proven effective in the reduction of campus crime.

#### Hate Crime Prevention

97. The House bill, but not the Senate amendment, authorizes grants to local educational agencies and community based organizations to support a wide range of activities to prevent and reduce crime associated with hate and prejudice in those localities most directly affected by such crimes.

SR with amendments (1) if funded will come out of secretaries discretionary money and (2) delete duplicative definitions (all).

The Conferees wish to clarify that grants under this authority shall be supported with funds made available to the Secretary for national activities.

#### General Provisions

98. The House bill, but not the Senate amendment, cites the use of tobacco.

The House recedes.

99. The Senate amendment, but not the House bill, has a provision relating to "prevention, early intervention, smoking cessation activities, or education related to the use of tobacco".

The House recedes with an amendment adding at the end "by children and youth eligible for services under this title."

The Conferees have agreed to set out provisions related to the prevention of the use of tobacco in a separate subparagraph only for the purposes of enhancing the clarity of the definition of "drug and violence prevention". By agreeing to this construction, the Conferees do not intend for the prevention of illegal tobacco use to be construed to be an optional component of the comprehensive drug and violence prevention activities carried out by recipients of funds under this title. To be credible, messages opposing illegal drug use by youth should address alcohol and tobacco as well.

100. The House bill uses the term "sexual harassment"; the Senate amendment uses the term "sexual harassment and abuse, and victimization associated with prejudice and intolerance".

The House recedes.

101. The Senate amendment, but not the House bill, includes a definition of "hate crime"—see the program in the House bill related to this topic.

The House recedes.

102. The House bill, but not the Senate amendment, includes the term "inclusive" in describing the age group included in definition.

Legislative counsel.

#### Prohibited Use of Funds

103. The House bill prohibits the use of funds to provide "psychiatric, psychological, or other medical treatment or rehabilitation, other than school-based counseling for students or school personnel who are victims or witnesses of school-related crime"; The Senate amendment prohibits the use of funds to provide "medical services, except for pupil services or referral to treatment for students who are victims of or witnesses to crime or who use alcohol, tobacco or other drugs."

The House recedes with an amendment adding "and rehabilitation" after "treatment" and striking the word "other".

#### Certification of Drug and Alcohol Abuse Prevention Programs Drug-Free

104. The House bill, but not the Senate amendment, sets out the minimum requirements for programs to prevent the use of illegal drugs and alcohol by students and employees that an I.E.A. must certify to an S.E.A. as having been adopted and implemented.

The House recedes.

105. The Senate amendment, but not the House bill, authorizes grants to educational service organizations and consortia thereof for a wide range of programs to prevent dropouts, identification of potential dropouts and school completion programs. \$50 million is authorized for this activity.

The House recedes with an amendment placing the dropout prevention program in part C of Title V.

#### TITLE V, PART A—MAGNET SCHOOLS ASSISTANCE

4. The Senate amendment, but not the House bill, includes making special efforts in discouraging isolation of "Students by racial characteristics"

The House recedes.

5. The House bill refers to "local educational agencies"; the Senate amendment refers to "school district". The House bill refers to "if they have more flexibility"; the Senate amendment refers to "if such districts have more flexibility in the administration of such program in order to . . ."

The Senate recedes on "local educational agencies" and legislative counsel will address the flexibility clause.

6. The Senate amendment, but not the House bill, includes "consistent with desegregation guidelines" in enabling participation by students who reside in the neighborhoods where the program operates.

The House recedes.

7. The Senate amendment, but not the House bill, includes "after Federal funding ends, the Federal Government must assist school districts to improve their capacity" to continue to operate at a high level of performance.

The House recedes.

8. The House bill refers to "its"; the Senate amendment refers to "the Federal Government" in continuing its support of local educational agencies in implementing court-ordered desegregation plans, plus LEA issue.

Legislative counsel.

9. The House bill refers to "their"; the Senate amendment refers to "such students" in expressing the Federal Government's support in magnet schools programs, and other differences.

Legislative counsel.

10. The House bill refers to "new and innovative programs in magnet schools that contribute to State and local systemic reform"; the Senate amendment refers to "effective and innovative magnet schools that contribute to State and local systemic reform."

The House recedes.

11. The House bill refers to "part"; the Senate amendment refers to "title" in the Statement of Purpose. In addition, the House bill refers to local educational agencies while the Senate amendment refers to school districts.

Legislative counsel.

12. The House bill refers to "State performance standards"; the Senate amendment refers to "State content standards and challenging State student performance standards" in providing all students opportunities in achieving standards.

The House recedes.

13. The Senate amendment, but not the House bill, includes "and consortia of such agencies where appropriate, to carry out the purpose of this title for magnet schools that are" as eligible to receive grant awards. The Senate amendment also itemizes eligibility criteria.

The House recedes with an amendment inserting "eligible" before LEA.

14. The House bill refers to "a school or education center"; the Senate amendment refers to "a public school or public education center" in the definition of a Magnet School.

The House recedes.

15. The House bill refers to eligible grantees as "a local educational agency"; the Senate amendment refers to a "A local educational agency, or consortium of such agencies where appropriate, is eligible to receive assistance under this title to carry out the purposes of this title if such agency or consortium" meet specific criteria.

The House recedes on consortia and the Senate recedes on this program being a part rather than a title.

15A. The House bill refers to "it under this part"; the Senate amendment refers to "such local educational agency or consortium of such agencies under this part."

The House recedes.

16. The House bill refers to "An eligible local educational agency"; the Senate amendment refers to "An eligible local educational agency or consortium of such agencies," desiring to receive assistance under this program.

The House recedes and the Senate recedes on this program being a part rather than a title.

16A. The House bill refers to "An application under this part shall include—"; the Senate amendment refers to "Each such application shall include—".

Legislative counsel.

16B. The House bill refers to "this part" while the Senate amendment refers to "this title".

The Senate recedes.

17. The House bill refers to "will increase"; the Senate amendment refers to "seeks to increase" when referring to student achievement in the instructional area.

The Senate recedes.

18. The House bill refers to "the manner in which an applicant will continue"; the Senate amendment refers to "how an applicant will continue" the project without the assistance of Federal funds. Also, the House bill refers to the continuation of the magnet schools projects by the applicant "with funds under this part have been continued without the use of funds"; the Senate amendment refers to "with funds under this title cannot be

continued without the use of funds under this part".

The House recedes except that the Senate recedes on part vs. title.

19. The House bill refers to "the State's and local educational agency's systemic reform plan, if any, under title III of the Goals 2000: Educate America Act"; the Senate amendment itemizes and refers to "(i) the State plan described in section 1111; and (ii) the local educational agency's plan described in section 1112."

The House recedes with an amendment to reference reform plans.

20. The House bill refers to "employ teachers in the courses of instruction assisted under this part who are certified or licensed by the State to teach the subject matter of the courses of instruction; the Senate amendment refers to "employ State certified or licensed teachers in the courses of instruction assisted under this title to teach or supervise others who are teaching the subject matter of the courses of instruction".

The House recedes. The Managers of the bill intend for this provision to allow experts in various fields, such as the arts or health care, to participate in classroom instruction and supervision in order to enhance the educational experience of students in the school.

21. The House bill refers to "have the greatest need for assistance"; the Senate amendment refers to "demonstrate the greatest need for assistance" in approving applications.

Legislative counsel except that the Senate recedes on part vs. title.

22. The Senate amendment, but not the House bill includes as a part of number 2 under *Priority*: "which include revisions to enable a magnet school to implement effective educational approaches that are consistent with the State's and the local educational agency's State or local improvement plans, if any;"

The Senate recedes.

23. The House bill refers to "propose to select students to attend magnet school projects by methods such as lottery, rather than through academic examination"; the Senate amendment refers to "propose to select students to attend magnet school projects on the basis of multiple criteria which may include a lottery, rather than solely academic examination."

The Senate recedes.

24. The House bill, but not the Senate amendment, contains a number 4 which reads "propose to implement innovative educational approaches that are consistent with the State's and local educational agency's approved systemic reform plans, if any, under title III of the Goals 2000: Educate America Act".

The Senate recedes with an amendment on coordination of reform plans.

25. The House bill refers to "Grants made under this part may be used by eligible local educational agencies"; the Senate amendment refers to "Grant funds made available under this title may be used by an eligible local educational agency or consortium of such agencies."

The House recedes on consortia and the rest is left to legislative counsel.

26. The Senate amendment, but not the House bill makes eligible "and instructional staff", where applicable for compensation in the program.

The House recedes on the substance and several other provisions are left to legislative counsel.

27. The Senate amendment, but not the House bill contains a Special Rule which pro-

hibits a local educational agency from expending funds for planning after the third year of a project.

The House recedes.

28. The Senate amendment, but not the House bill, includes a matching requirement specifying a Federal share as follows: 100% for the first and second year; 90% for the third year; and 70% for the fourth or any subsequent year including grant renewals.

The Senate recedes.

29. The Senate amendment, but not the House bill, specifies that the non-Federal share may be in cash or in kind, including planned equipment or services, fairly valued, and may include other Federal education funds.

The Senate recedes.

30. The House bill refers to "Awards made under this part shall not exceed 3 years"; the Senate amendment refers to "A grant under this title shall be awarded for a period that shall not exceed four fiscal years."

The Senate recedes with amendment inserting "fiscal" years.

31. The House bill refers to "A local educational agency may expend for planning: up to 50% for the first year; 15% for the second year; up to 10% for the third year."

The Senate amendment specifies "A local educational agency may expend for planning: not more than 50% of the funds for the first year; 25% for the second year; 10% for the third year."

The Senate recedes on the substance of the provisions and the other differences are to be resolved by legislative counsel.

32. The House bill refers to "A local educational agency shall not receive more than \$4,000,000 under this part in any one grant cycle"; the Senate amendment specifies "no local educational agency or consortium receiving a grant under this section shall receive more than \$4,000,000 under this part in any one fiscal year."

The House recedes.

32A. The House requires that grants be awarded to LEAs by June 1 while the Senate amendment requires that they be awarded to LEAs or consortia by June 30.

The House recedes on consortia and the Senate recedes on the date.

32B. The House bill refers to this part while the Senate amendment refers to this title. In addition there are other drafting differences.

The Senate recedes on part and the rest is to be resolved by legislative counsel.

33. The House bill refers to "the Secretary shall, with respect to such excess amount, give priority to grants to local educational agencies that did not receive a grant under this part in the last fiscal year of the funding cycle prior to the fiscal year for which the determination is made"; the Senate amendment refers to "the Secretary shall give priority to using such amounts in excess of \$75,000,000 to award grants to local educational agencies or consortia that did not receive a grant under this part in the preceding fiscal year."

The House recedes on the substance and other drafting differences are to be resolved by legislative counsel.

34. The Senate amendment, but not the House bill, delineates specific areas which the evaluation must address.

The House recedes.

35. The Senate amendment, but not the House bill, includes innovative programs involving strategies, other than magnet schools, such as community model schools.

The House recedes.

The Managers recognize that there exist numerous creative and innovative educational strategies worthy of the Secretary's

support. Among them is the development of youth leadership training projects in urban areas that will recruit teen leaders, work with community-based organizations, institutions of higher education, local businesses, and local education agencies to develop integrated strategies which will allow youth from multicultural backgrounds to receive advanced skill and leadership training. The Managers also encourage the Department to support efforts that have achieved demonstrable success.

TITLE V—PART B—WOMEN'S EDUCATIONAL EQUITY ACT

1. The House bill includes the "Women's Educational Equity Act" under Part B. The Senate Amendment includes "Women's Educational Equity" under Part G.

Legislative counsel.

2. The Senate amendment, but not the House bill, refers to a Short Title: "Women's Educational Equity Act of 1994."

The House recedes.

3. The House bill refers to "Findings and Statement of Purpose"; the Senate amendment refers to "Short Title; Findings."

Legislative counsel.

4. The House bill refers to "(a) Findings—The Congress finds and declares that—"; the Senate amendment refers to "(b) Findings—The Congress finds that—".

The House recedes.

5. The House bill lists statements of declaration regarding gender equity pertaining to the frequency of inequitable programs, inequities limiting participation of individuals, and the assurance that women and girls have equal access to public education; the Senate amendment lists findings including progress women and girls have made in educational achievement, the increased availability of more curricula and training.

The House recedes with an amendment to move the third finding to the Senate list of findings.

6. The Senate amendment, but not the House bill, lists significant gender inequities which still exist in teaching and learning practices (e.g. sexual harassment, girls receiving less attention from classroom teachers than boys, girls of color having less interaction with teachers than other girls, classroom textbooks insufficiently reflecting experiences of people of color and often are not written by women or persons of color, girls not taking as many mathematics and science courses as boys, fewer women role models in the sciences, women continuing to be concentrated in low-paying jobs that do not require mathematics and science skill's etc.)

The House recedes with amendments to replace the introduction to the Senate's third finding with "however, teaching and learning practices in the United States are frequently inequitable, as such practices relate to women and girls, for example."; to strike subparagraph (B); and to strike "and women continue to be concentrated in low-paying, traditionally female jobs that do not require mathematics and science skills." from subparagraph (D).

7. The Senate amendment, but not the House bill, in its Findings refers to "Federal support should address not only research and development of innovative model curricula and teaching and learning strategies to promote gender equity, but should, to the extent feasible, also help schools and local communities implement and institutionalize gender equitable practices."

The House recedes with an amendment to add House finding (3) and keep Senate (4) but strike "to the extent feasible" and "and institutionalize".

8. The Senate amendment, but not the House bill, in its Findings refers to "Federal assistance for gender equity must be tied to systemic reform, involve collaborative efforts to implement effective gender practices at the local level, and encourage parental participation."

The House recedes.

9. The Senate amendment, but not the House bill, in its Findings refers to "excellence in education, high educational achievements and standards, and the full participation of women and girls in American society cannot be achieved without educational equity for women and girls."

The House recedes.

10. The House bill refers to "(b) Purpose.—" and states the purpose in one sentence; the Senate amendment refers to "Statement of Purposes. It is the purpose of this part—" and lists identical purposes but in an itemized format.

The House recedes.

11. The House bill, but not the Senate amendment, under programs authorized, provides the Secretary with authority to carry out a list of activities including promoting, coordinating, and evaluating gender equity policies, programs, activities, and initiatives in all federal education program and offices, providing grants to develop model equity programs, providing funds for the implementation of equity programs in schools throughout the nation, and assisting the Assistant Secretary of OERI in identifying research priorities related to education equity for women and girls.

The Senate recedes.

12. The House bill refers to "Local Implementation Grants." The Senate amendment refers to "Programs Authorized".

The House recedes with an amendment changing "program" to "grants".

13. The House bill authorizes two types of grants: (a) Local Implementation Grants, (Section 5203); and (b) Research and Development Grants (Section 5204). The Senate amendment authorizes one set of grants with two broad purposes: (a) Implementation of Effective Policies and Practices (Section 8453(1)); and (b) Research and Development (Section 8453(2)). Please see item #29 for the latter.

The House recedes with an amendment changing "practices" to "programs".

14. The House bill refers to authorizing the Secretary to make grants to, and enter into contracts with, public agencies, private nonprofit agencies, organizations, and institutions including community groups; the Senate amendment adds cooperative agreements.

The House recedes.

15. The House bill, but not the Senate amendment, includes grants to student groups.

The Senate recedes with an amendment to include "individuals".

16. The House bill, but not the Senate amendment, refers to in the awarding of grant "for activities designed to achieve the purposes of this part at all levels of education including preschool, elementary and secondary education, higher education, adult education and vocational/technical education".

The House recedes.

17. The House bill, but not the Senate amendment, includes the establishment and operation of the grant for a period not to exceed four years.

The Senate recedes.

18. The House bill, but not the Senate amendment, specifies local programs to en-

sure educational equity for women and girls, equal opportunities for both sexes, and to conduct activities in compliance with title IX of the Education Amendments of 1972.

The House recedes.

19. The House bill and the Senate amendment both include some similar implementation activities—Title IX assistance, teacher training, evaluating model programs, and introduction of materials in classrooms.

The House bill, but not the Senate amendment, includes program activities to address sexual harassment and violence; guidance, counseling, and career education; non-discriminatory tests and alternative assessments; and improved access of women to educational administration programs.

The Senate amendment, but not the House bill, includes school-to-work programs, assistance to pregnant students and students rearing children and leadership training.

The House recedes with an amendment to keep all of the Senate language and add the House's (4), (6), (7), (8), and (9); add a new (A) which read "comprehensive institution or district-wide evaluation to assess the presence of absence of gender equity in education settings;" and to strike the House (C).

20. The Senate amendment, but not the House bill, refers to "Application; participation.—" The Senate amendment refers to "Applications".

Legislative counsel.

21. The House bill, but not the Senate amendment, has a separate application process for each type of grant: (a) Local Implementation Grant, and (b) Research and Development. The Senate has only one application process.

The House recedes.

22. The Senate amendment, but not the House bill, refers to "or cooperative agreement may be entered into".

The House recedes.

23. The House bill refers to "Each such application shall"; the Senate amendment refers to "such as".

The Senate recedes.

24. The House bill includes several areas that must be included in the application: program or activity must be administered by or under the supervision of the applicant and in cooperation with appropriate education and community leaders, community-based organizations serving women, teachers, student organizations, business leaders, other significant groups and individuals, etc.; description of program for carrying out purpose in the grant program; description of plans for continuation and institutionalization of the program with local support following completion of the grant and termination of Federal support; and policies which ensure documentation and evaluation of the activities.

The Senate amendment lists examples of information which may be included in the application: setting forth policies that will ensure a comprehensive evaluation of the project as well as an evaluation of the continued significance of the work of the project following completion of the award period; a demonstration of how funds will promote the attainment of the national goals; addressing perception of gender roles based on cultural differences; describing how linked with the School to Work Opportunities Act, demonstrating how applicant will foster partnerships and share resources with a wide array of groups; and applications for projects under programs authorized demonstrating how parental involvement will be encouraged.

The House recedes with amendments to add "where appropriate" and "where applicable" in several places; to add "(including

those serving women), parent, teacher and student groups, businesses," to the Senate list in (5); add "and strike institutionalization" in House (3) and add the House (3) to apply to implementation grants.

25. The House bill refers to "Criteria; Priorities; Categories of Competition; the Senate amendment refers to "Criteria and Priorities."

The House recedes.

26. The House bill refers to "The Secretary shall establish criteria, priorities, and categories of competition for awards under this part to ensure that available funds are used for those purposes that most effectively will achieve the purposes of the Act"; the Senate amendment refers to "The Secretary shall establish separate criteria and priorities for awards under paragraphs (1) and (2) of section 8453 (program authorized) to ensure that available funds are used for programs that most effectively will achieve the purposes of this part".

The House recedes.

27. The House bill, but not the Senate amendment, lists criteria which must be addressed; the Secretary shall establish priorities, title IX must be a priority for compliance, and not more than 60% of funds in each fiscal year shall be allocated to program under the priority; and to the extent feasible, the Secretary shall establish three categories of competition: grants to local educational agencies, institutions of higher education, and to non-profit organizations.

The Senate recedes with an amendment to replace "shall address" with "may include" and strike the House's (2) and (3).

28. The House bill in its Special Rule section indicates that to the extent feasible, the Secretary shall ensure that the grants address all levels of education, all regions of the United States; and urban, rural, and suburban educational institutions; the Senate amendment indicates that the Secretary shall give special consideration to applicants that have not received assistance under this part or under Part C of title IX; for projects that will contribute significantly to directly improving teaching and learning practices in the local community; projects that will provide for a comprehensive approach, draw on a variety of resources, implement a strategy with a long-term impact and address issues of national significance that can be duplicated.

The Senate recedes with an amendment to take the House's (1), (2), and (3) and add them as criteria for grants; and to strike "including at least one grant in each of the ten Federal regions" in (2) and add the Senate's (1) and (3) as criteria for grants.

29. The House bill includes its Research and Development Grants program in a separate section. The Senate amendment includes its research and development grants in its Program Authorized section.

The House recedes with an amendment to strike "National Institute on the Education of At-Risk Students" and insert "with each of the research institutes in OERI".

30. The House bill and the Senate amendment include similar activities although written differently.

The House recedes with an amendment to add "of innovative strategies and model training program for teachers and other education personnel" and strike "designed to advance gender equity, including the development of innovative strategies to improve teaching and learning practices"; strike the Senate (E), and (G); add the House's (3), (5) (6), and (7); and change (7) to read: the development of instruments and strategies for

evaluation dissemination, and replication of promising or exemplary programs designed to assist LEAs to integrate gender equity into their educational policies and practices.

31. The House bill, but not the Senate amendment, specifies a separate application process for research and development grants. The House bill requires certain kinds of administration. The Senate amendment provides examples of information the application may contain (see item #30).

The House recedes.

32. The bill, but not the Senate amendment, requires a separate Criteria and Priorities section for research and development purposes (See Senate's Criteria in item #26).

The House recedes.

33. The House bill, but not the Senate amendment, requires that the criteria and priorities be promulgated in accordance with section 431 of the General Education Provisions Act.

The House recedes.

34. The House bill, but not the Senate amendment, requires that in establishing priorities, one shall be programs which address the educational needs of women and girls who suffer multiple or compound discrimination.

The Senate recedes with an amendment to place a revised House (3) in the criteria and priorities section.

35. The House bill, but not the Senate amendment, includes a separate Special Rule for the research and development program. This Special Rule differs from the Special Rule in the Implementation Grants section. Please see note #28.

The House recedes.

36. The House bill, but not the Senate Amendment, includes a Coordination provision which indicates that research activities must be carried out in consultation with OERI and may include collaborative research activities which are jointly funded and carried out by the Office of Women's Equity and the Office of Educational Research and Improvement.

The Senate recedes with an amendment striking "by the Office of Women's Equity and the" and add "with the" before OERI.

37. The House bill includes two different authorizations for appropriations: (a) for Section 5203, \$3,000,000 is authorized for fiscal year 1995 and such sums as necessary for each of the fiscal years through 1999, and (b) for Section 5204, \$2,000,000 is authorized for fiscal year 1995 and such sums as may be necessary for each of the fiscal years through 1999. The Senate amendment authorizes to be appropriated \$5,000,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years through 1999 of which not less than two-thirds of the amount appropriated must be available to carry out section 8453(1).

The House recedes.

38. The Senate amendment, but not the House bill, requires a report to be submitted to the President and the Congress on the status of educational equity for girls and women by January 1, 1999.

The House recedes.

39. The Senate amendment, but not the House bill, requires an evaluation by the Secretary in accordance with section 10701; a dissemination of materials and programs developed; and requires a report to Congress regarding such evaluation materials and program by January 1, 1998.

The House recedes.

40. The Senate amendment, but not the House bill, authorizes the Secretary to use funds appropriated under section 8458 to

gather and disseminate information on gender equity and to convene meetings for this purpose, if necessary.

The Senate recedes.

41. The Senate amendment, but not the House bill, requires The Secretary to ensure that gender equity programs are administered within the Department by one who has recognized professional qualifications and experience in the field of gender equity and who will serve as a focal point of national leadership and information.

The House recedes with an amendment placing a period after "gender equity education" and striking the rest of the sentence.

#### TITLE VI—INNOVATIVE EDUCATION PROGRAM STRATEGIES

The House bill uses the title "Innovative Education Program Strategies" for this part while the Senate amendment uses the title "Targeted Assistance Program" for this title. The Senate recedes.

#### Findings and Statement of Purpose

The House bill, but not the Senate amendment, includes findings regarding the success of Chapter 2, the statement of purpose, and outlines state and local responsibility in administering the program. The Senate recedes with an amendment to strike "that can be supported by State and local sources of funding after such programs are demonstrated to be effective" and to replace "and support for library services" with "including support for library services" adding "media" before "materials" and striking "including media materials and".

#### Authorization of Appropriations

The House bill authorizes \$435 million to be appropriated in fiscal year 1995 and such sums as may be necessary through 1999. The Senate amendment authorizes \$325 million to be appropriated in fiscal year 1995 and such sums as may be necessary through 1999.

The House bill, but not the Senate amendment, stipulates that during fiscal years 1995 through 1999 the Secretary shall make payments to the State educational agencies for the purpose of this section. The Senate recedes.

#### Definition

The House bill, but not the Senate amendment, defines "effective schools programs." The Senate recedes with an amendment changing "deprived" to "disadvantaged."

The Senate amendment, but not the House bill, includes the Republic of the Marshall Islands and the Federated States of Micronesia in the set-aside for the outlying areas. The Senate recedes with an amendment replacing the list of outlying areas with the term "outlying areas."

The Senate amendment, but not the House bill, includes "for assistance under this title" at the end of subsection (a). The Senate recedes.

#### Allocation to Local Educational Agencies

The House bill requires that the State educational agency shall direct no less than 85% of funds to local educational agencies to carry out the purposes of this part, while the Senate amendment requires 80% for the same purpose. The Senate recedes.

#### State Uses of Funds

The House bill allows funds to be used for "statewide education reform activities including effective schools programs," while the Senate amendment refers only to "statewide activities." The Senate recedes.

#### State Applications

The House bill requires State applications to provide for an annual submission of data

on the use of funds, types of services furnished and students served under this section while the Senate amendment requires a biennial submission of such data. The House recedes.

The House bill requires State applications to provide for a program evaluation in fiscal year 1998, while the Senate amendment does not specify when the evaluation must occur. The Senate recedes.

The House bill requires the State applications to set forth the allocation of funds required to implement section 2452, the Senate amendment requires the State applications to set forth the allocation of such funds required to implement section 13203, and to describe the programs, projects, and activities that will carry out targeted assistance and the reason for their selection. The Senate recedes.

The Senate amendment, but not the House bill, provides for "timely public notice and public dissemination of information provided pursuant to paragraph (2)." The House recedes.

The Senate amendment, but not the House bill, requires that an application to the secretary for grants detail: "how the State will adjust its formula to comply with section 13102, how children under section 13102 are defined, the basis on which a determination of the local educational agencies under section 13102 is made, and the percentage of the State grant which is proposed to be allotted on an adjusted basis under section 13102." The Senate recedes.

#### *Targeted Use of Funds*

The Senate recedes with an amendment to the subpart title to read "Local Innovative Education Programs."

The House bill contains a list of what kinds of targeted assistance programs referred to in this subsection "include." The Senate amendment contains a list of what the targeted assistance programs "are." The Senate recedes.

The House bill, but not the Senate amendment, includes as a use of funds technology to further reform, as well as training to help teachers and school officials learn how to use new equipment and software effectively. The Senate recedes.

The House bill specifies that funds may be used for "instructional and educational materials" while the Senate amendment allows "programs for the acquisition and use of instructional and educational materials." The Senate recedes.

The House bill allows funds to be used for "assessments," the Senate amendment does not. The Senate recedes.

The House bill allows funds to be used for "library services and materials (including media materials) tied to high academic standards and which are part of an overall education reform program." The Senate amendment states that educational materials include "library books, reference materials, computer software and hardware for instructional use, and other curricular materials that will be used to improve student achievement." The House recedes with an amendment to add at the end of the sentence "and which are part of an overall education program."

The House bill, but not the Senate amendment, allows funds to be used for promising education reform projects, including effective schools and 21st Century Learning Center projects. The Senate recedes with an amendment to add magnet schools and strike 21st Century Learning Centers, moving that program to Title X.

The House bill specifies that computer hardware and software purchased under this

section should only be used for instructional purposes, the Senate amendment includes the same limitation in 13301(b)(1). The House recedes.

The Senate amendment, but not the House bill, allows funds to be used for programs to improve higher order thinking skills of economically disadvantaged students and to prevent students from dropping out. The House recedes with an amendment striking "economically" before "disadvantaged."

The Senate amendment, but not the House bill, allows funds to be used to combat student/parent/adult illiteracy. The House recedes.

The Senate amendment, but not the House bill, allows funds to be used to provide for the educational needs of gifted and talented children. The House recedes.

The Senate amendment, but not the House bill, allows funds to be used for school facility repair, renovation, improvement and construction. The Senate recedes.

The Senate amendment, but not the House bill, allows funds to be used for school reform consistent with the Goals 2000: Educate America Act for LEAs not receiving money under that Act. The House recedes with an amendment striking "for local educational agencies that do not receive assistance under that Act."

The Senate amendment, but not the House bill, allows funds to be used for school improvement programs under sections 1118 and 1119. The House recedes.

#### *Administrative Authority/Authorized Activities*

The Senate amendment, but not the House bill, states that activities authorized under this part may include the planning, development, or operation and expansion of programs which may include: training of educational personnel in any of the targeted assistance programs detailed in 13301; guidance and pupil services; and any other education or related activities which the SEA or LEA determines will contribute to improving the programs described in section 13301. The Senate recedes.

#### *Local Applications*

The House bill states that State educational agencies may approve a local educational agency application if it carries out targeted assistance "it intends to support" and the Senate amendment refers to targeted assistance the State educational agency "intends to support." The House recedes with an amendment changing "State" to "local."

The House bill, but not the Senate amendment, requires a certified State educational agency application to "set forth the allocation of such funds required to implement section 2452." The Senate recedes with an amendment changing the section reference to "2442."

The House bill, but not the Senate amendment, requires a state educational agency application to show how such assistance will contribute to the "National Education Goals." The Senate recedes.

The House bill, but not the Senate amendment, provides assurances of compliance with this part, including participation of children enrolled in private, nonprofit schools in accordance with section 2452. The Senate recedes.

The House bill and the Senate amendment have identical provisions except the House bill uses the word "concession" and the Senate amendment uses "consistent." The House recedes.

The House bill and Senate amendment allow LEA applications to be filed for 3-year

periods, but the House bill states that the application may provide for the allocation of funds "to programs" and the Senate amendment states "among programs and purposes authorized by this title." The Senate recedes.

#### *Maintenance of Effort; Federal Funds Supplementary*

The House bill, but not the Senate amendment, requires a maintenance of effort and requires federal funds to be supplementary. The Senate recedes with an amendment to replace this section with language that states that a State shall comply with maintenance of effort and federal supplementary provisions in title XIV (General Provisions). *Participation of Children Enrolled in Private Schools*

The House bill, but not the Senate amendment, includes provisions on the participation of children in private schools. The Senate recedes.

#### *Evaluations and Reporting*

The House bill, but not the Senate amendment, outlines how LEAs must report to SEAs, how SEAs shall evaluate the effectiveness of State and local programs under this part in accordance with section 2423, and how the evaluation will be reviewed by a State advisory committee and will be made available to the public. In addition, the Secretary shall develop a system which SEAs may use for data collection and reporting under this part. The Senate recedes.

#### *Federal Administration*

The House bill, but not the Senate amendment, states that the Secretary shall provide technical assistance to State and local agencies, shall issue regulations only to the extent needed, and that funds appropriated for this part shall be available for obligation on July 1 of such fiscal year.

#### *Open.*

#### *Application of General Education Provisions Act*

The House bill, but not the Senate amendment, states that, except as specified in the subsection, GEPA shall apply to the programs authorized by this part. The House recedes.

#### *21st Century Community Learning Centers (To be placed in Title X)*

The Senate amendment, but not the House bill, provides that the short title is "21st Century Community Learning Centers Act." The House recedes.

In finding (1) the House bill refers to "resources;" the Senate amendment refers to "services." The Senate recedes.

In finding (2), the Senate amendment, but not the House bill, refers to meeting the needs "of" and expanding the opportunities available "to" residents of communities being served by such schools. The House recedes.

The Senate amendment, but not the House bill, contains a finding relating to lifelong learning. The House recedes.

The Senate amendment, but not the House bill, contains a finding concerning education strategies that address the educational needs of all members of local communities. The Senate recedes.

#### *Program Authorization and Distribution*

The Senate amendment, but not the House bill, includes "and distribution" in the section heading. The House recedes.

The House bill refers to grants to schools; the Senate amendment refers to grants to "public elementary or secondary schools" . . . "to enable such schools or consortia." The House recedes.

The House bill provides for a minimum grant of \$50,000; the Senate amendment provides a minimum grant of \$20,000. The House recedes with an amendment to change the minimum grant amount to \$35,000.

The House bill provides that "to be eligible to receive funds under this section" that schools or consortia "thereof" shall submit an application to the Secretary of Education; the Senate amendment provides that to be eligible to receive a "grant, an elementary or secondary school or consortium" shall submit an application. The House recedes.

The House bill provides that the plan include a plan that enables such school to serve as the center for the delivery of education and human resources; the Senate amendment provides that the plan enable such school "or consortia" to serve as a center for the delivery of human "services." The Senate recedes.

The House bill, but not the Senate amendment, emphasizes interactive telecommunication among the services the school will deliver. The Senate recedes.

The Senate amendment, but not the House bill, includes consortia along with schools as service providers. The House recedes.

The House bill lists "the establishment" of certain facility utilization policies as a need to be addressed by programs in the application while the Senate requires an "assurance" of the establishment of such a policy in the application. The House recedes.

The House bill, but not the Senate amendment, discusses schools as "centers for lifelong learning." The House recedes.

The House bill, but not the Senate amendment, discusses the center's relationship to the community. The Senate recedes with an amendment to move this paragraph to the end of findings.

The House bill, but not the Senate amendment, states that priority will go to applications that address the need of the community. The Senate recedes.

The House bill, states "in conjunction with recreation programs" while the Senate amendment states "that are coordinated with summer recreation programs." The Senate recedes.

The House bill includes among the allowable activities "nutrition, health, and/or physical therapy" while the Senate amendment includes "nutrition programs" among the allowable activities. The House recedes with an amendment to include "and health."

The House bill refers to "students" while the Senate amendment refers to "individuals." The House recedes with an amendment to strike "who are either physically or mentally challenged" and add "with disabilities."

The House bill states "In approving grants under this section," while the Senate amendment states "in awarding grants under this part." The House recedes.

The House bill, but not the Senate amendment, defines "Secretary." The House recedes with an amendment adding "institutions of higher education."

The House bill authorizes \$25 million, while the Senate amendment authorizes \$20 million, for this program for FY 95 and such sums as may be necessary for the succeeding four years. The House recedes.

#### TITLE X—SMALL BUT SIGNIFICANT PROGRAMS

The House bill cites this title as "Title III—Expanding Opportunities For Learning". The Senate amendment cites this title as "Title VIII—Programs of National Significance." The House recedes.

#### FUND FOR THE IMPROVEMENT OF EDUCATION

##### Authorization

In paragraph (a), the House bill refers to "challenging standards." The Senate amendment refers to "challenging State content standards and challenging State student performance standards." The House recedes.

##### Uses of Funds

The House bill, but not the Senate amendment, permits research and development on content and performance standards and opportunity-to-learn standards. The Senate recedes with an amendment, inserting "or strategies" after "standards."

In paragraph (A)(i), the Senate amendment provides for the elimination of grouping practices and the development of programs that place all students on a college preparatory path of study. The House does not. The House recedes with an amendment, striking all language beginning with "and" after "practices" in paragraph (i).

In paragraph (A)(ii), the Senate amendment provides for the development and evaluation of programs with strong parental involvement. The House does not. The House recedes.

In paragraph (A)(iii), the Senate amendment provides for the development and evaluation of strategies for integrating instruction and assessment. The House does not. The House recedes.

In paragraph (A)(iv), the Senate amendment provides for the development and evaluation of strategies for supporting professional development for teachers, counselors, and administrators. The House recedes with an amendment, inserting "pupil services personnel, including" before "guidance counselors."

The House bill refers to "public school choice in accordance with the requirements of part C." The Senate amendment refers to "public school choice." The Senate recedes.

The Senate amendment refers to "Federal agencies, such as the National Science Foundation, the Department of Health and Human Services, and the Department of Labor, and with institutions of higher learning to assist the effort to achieve the National Education Goals". The House bill refers to "agencies to assist the effort to achieve the National Education Goals." The Senate recedes.

The Senate amendment refers to "activities to promote and evaluate coordinated pupil service programs". The House bill has no such provision. The House recedes.

The House bill refers to "(G) activities to promote consumer, economic, and personal finance education". The Senate amendment refers to "(K) activities to promote consumer education, such as saving, investing, and entrepreneurial education." The Senate recedes with an amendment, adding "such as saving, investing, and entrepreneurial education;" after "education;".

The Senate amendment refers to "activities to promote metric education". The House bill has no such provision. The House recedes.

The House bill refers to "the identification and recognition of exemplary schools and programs, such as Blue Ribbon Schools". The Senate amendment has no such provision. The Senate recedes.

The House bill refers to programs to reduce student mobility. The Senate amendment has no such provision. The Senate recedes.

The House bill refers to public-private partnerships which would permit students to bring computers home. The Senate amendment has no such provision. The Senate recedes.

The House bill has no parallel provisions to Senate amendment items: "(M)", "(N)", "(O)", "(P)", "(R)", "(T)." The House recedes with an amendment striking paragraphs "(N)" and "(T)" and modifying "(R)" to read as follows: "demonstrations relating to the planning and evaluation of the effectiveness of projects under which LEAs or schools contract with private management organizations to reform a school or schools."

In paragraph (2) (A), (B) and (C), the House bill provides for the establishment, content, and mission of the National Center for Second Language Development.

The Senate amendment has no such provisions. The House recedes.

##### Awards

##### Authorization

1. The House bill refers to "fiscal year 1996, 1997, 1998, and 1999." The Senate amendment refers to "4 succeeding fiscal years." The House recedes with an amendment authorizing FIE at \$50,000,000.

#### GIFTED AND TALENTED STUDENTS

##### Findings

The House bill refers to the standards as "high"; the Senate amendment describes standards as "challenging State content standards and challenging State student performance standards." The House recedes.

The Senate amendment, but not the House bill, notes the experience gained should be used as a basis to "provide all students with important and challenging subject matter to study and encourage the habits of hard work." The House recedes.

##### Definitions

The House bill, but not the Senate amendment, defines gifted and talented students as youth exhibiting a high performance capability and require services or activities not ordinarily provided by the school in order to fully develop their capabilities. The House recedes.

##### Construction

The Senate amendment, but not the House bill, clarifies that a "recipient of funds under this part" will not be precluded from "serving gifted students simultaneously with students with similar educational needs, in the same educational settings." The House recedes.

##### Establishment of Program

##### Uses of Funds

The Senate amendment, but not the House bill, refers to parents involved in gifted and talented programs. The House recedes.

The Senate amendment, but not the House bill, includes the implementation of innovative strategies, such as cooperative learning, peer tutoring and service learning as programs using funding. The House recedes.

##### Establishment of National Center

##### Limitation

The House bill states a limitation of not more than 30 percent of available funds in a fiscal year for a program authorized by this section to carry out activities pursuant to subsections (b)(5) or (c). The Senate amendment limits programs authorized by this section and its activities pursuant to subsection (b)(7) or (c) to not more than \$1,750,000. The Senate recedes.

##### General Priority

The House bill, but not the Senate amendment includes "such as mentoring and apprenticeship program." The Senate recedes.

##### Review, Dissemination, and Evaluation

The House bill refers to "results of projects". The Senate amendment refers to

"results of programs and projects." The House recedes.

The Senate amendment states that the programs shall be evaluated under this part in accordance with section 10701. The House bill states the programs will be evaluated under this part. The House recedes.

#### Administration

The House bill states specific duties of the administrative unit. The Senate amendment simply states that this administrative unit shall serve as a "focal point of national leadership and information on mechanisms to carry out the purpose of this part." The Senate recedes with an amendment, moving the Senate language regarding a person in the Department to administer these programs, "The Secretary . . . who shall", replacing the House language "The Secretary shall . . .", keeping the House's list of duties.

#### Authorization of Appropriations

The House bill authorizes appropriations of \$10,000,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996, 1997, 1998, and 1999. The Senate amendment authorizes appropriations of \$20,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years. The Senate recedes.

The Senate amendment includes a trigger for appropriations, the House bill does not. The Senate recedes.

#### PUBLIC CHARTER SCHOOLS

The conferees intend that public entities authorized under state law have some relation to education and be capable of carrying out oversight, fiduciary and other administrative requirements related carry out such a grant.

#### Purpose

The House bill refers to "SEC. 3401. PURPOSE." The Senate amendment refers to "SEC. 8201. FINDINGS AND PURPOSE." The House recedes.

The House bill refers to "those schools on improving student achievement". The Senate amendment refers to "such schools." The House recedes with an amendment inserting "student achievement," after "students."

#### Findings

The Senate amendment, but not the House bill, presents findings on charter schools. The House recedes with amendments striking "new schools developed through such process should be free to test" at the beginning of paragraph (3) and in inserting "Charter Schools are a mechanism for testing"; and inserting "educationally disadvantaged" before "students" the first time it appears.

#### Program Authorized

The Senate amendment, but not the House bill, specifies that applications be approved pursuant to section 8203 and in accordance with this part. The House recedes.

The Senate amendment refers to "(b) SPECIAL RULE.—". The House has no such provision. The House recedes.

#### Project Periods

The Senate amendment, but not the House bill, creates two subparts: "GRANTS TO STATES" and "GRANTS TO ELIGIBLE APPLICANTS." The House recedes.

#### Limitation

The Senate amendment, but not the House bill, refers to "and State educational agencies shall not award more than one subgrant under this part." The House recedes.

#### Applications

The House bill heading reads in part "APPLICATIONS REQUIRED". The Senate

amendment reads in part "APPLICATIONS FROM STATE AGENCIES." The House recedes.

The House bill and Senate amendment use different language to convey the same provision. However, the Senate amendment, but not the House bill, refers to "and containing or accompanied by such information as the Secretary may require." The House recedes.

The House bill, but not the Senate amendment, refers to "(b) SCOPE OF APPLICATION". The House recedes.

The House bill refers to "(c) APPLICATION CONTENTS.—Each such application shall include, for each charter school for which assistance is sought—". The Senate amendment refers to "(b) CONTENTS OF A STATE EDUCATIONAL AGENCY.—Each application submitted pursuant to subsection (a) shall—". The House recedes.

In paragraph (b)(1), the Senate amendment, but not the House bill, provides that applicants describe which objectives are to be fulfilled and how they will be accomplished. The House recedes.

In paragraph (3), the Senate amendment, but not the House bill, establishes that agencies desiring to be awarded a subgrant submit an application. The House recedes.

The House bill refers to "the local educational agency that will authorize or approve the school's charter and act as the grantee under this act". The Senate amendment refers to "the authorized public chartering agency." The House recedes.

The House refers to "local educational agency" and "the school is successful". The Senate amendment refers to "authorized public chartering agency" and "the school has met the objectives described in subparagraph (C)(i)." The House recedes.

The House bill, but not the Senate amendment, refers to "a description of any State or local rules, generally applicable to public schools, that will be waived for, or otherwise not apply to, the school." The Senate recedes.

The Senate amendment, but not the House bill, refers to "subgrant funds or grant funds, as appropriate, will be used, including a description of how such funds will be used in conjunction with other Federal programs administered by the Secretary." The House recedes.

The Senate amendment, but not the House bill, refers to "and the State educational agency." The House recedes.

The Senate amendment refers to "and the State educational agency in evaluating the program assisted under this part". The House bill refers to "in evaluating the program authorized by this part." The House recedes.

The Senate amendment, but not the House bill, refers to "and the State educational agency." The House recedes with an amendment inserting "Consistent with Section 8202(b)" before "Each".

The House bill heading in part reads "STATE EDUCATIONAL AGENCY APPROVAL REQUIRED.—" The Senate amendment reads "APPLICATIONS FROM ELIGIBLE APPLICANTS." The House recedes with an amendment striking "Eligible Agency."

The Senate Amendment, but not the House bill, details content to be included in applications and the process by which an application shall be submitted. The House recedes with an amendment striking "sentence" and inserting "subsection."

#### Administration

The Senate amendment, but not the House bill, provides for the administration of the selection of applicants.

The House recedes with an amendment inserting "assisting educationally disadvantaged and other students" after "make to."

#### Selection of Grantees; Waivers

The House bill refers to "(a) CRITERIA.—The Secretary shall select" The Senate amendment refers to "(b) SELECTION CRITERIA FOR ELIGIBLE APPLICANTS.—The Secretary shall award" and includes "submitted under section 8203, after." The House recedes.

The Senate amendment refers to "State educational agency" and "charter school". The House bill refers to "State" and "school." The House recedes.

The House bill refers to "the plan". The Senate amendment refers to "the process." The House recedes with an amendment changing "process" to "strategy."

The House bill refers to "school". The Senate amendment refers to "charter school." The House recedes.

#### Peer Review

The Senate heading reads in part "(c)." The House reads "(b)." The House recedes.

The Senate amendment refers to "assistance under this part". The House bill refers to "grants under this section." The House recedes.

#### Diversity of Projects

The Senate amendment, but not the House bill, refers to "such as approaches designed to reduce school size." The House recedes.

#### Waivers

The Senate heading reads in part "(e)." The House reads "(d)." The House recedes.

#### Uses of Funds

The House bill and Senate amendment headings differ throughout this section. The House recedes.

#### Allowable Activities

The House bill refers to "(B) acquiring necessary equipment". The Senate amendment refers to "(ii) acquiring necessary equipment and educational materials and supplies." The House recedes.

The Senate amendment, but not the House bill, permits minor remodeling. The House recedes.

The Senate, but not the House, includes "ADMINISTRATIVE EXPENSES" and "REVOLVING LOAN FUNDS." The Senate recedes.

#### National Activities

The House bill refers to "up to 10 percent of the funds appropriated for this part". The Senate amendment refers to "not more than 10 percent of the funds available to carry out this part." The House recedes.

The Senate amendment, but not the House bill, lists other activities assisted under this part. The Senate recedes.

#### Definitions

The House bill, but not the Senate amendment, refers to "the following terms have the following means." The House recedes with amendment striking "(C)."

In paragraph (B), the Senate amendment includes "and is operated under public supervision and direction." The House recedes.

In paragraph (C), the House bill refers to "local educational agency applying for a grant on behalf of the school". The Senate amendment refers to "the authorized public chartering agency." The House recedes.

In paragraph (I), the House refers to "public schools". The Senate refers to "schools." The House recedes.

The House, but not the Senate, refers to "(K)." The Senate recedes.

The House bill and Senate amendment use different language to convey the same provision in "(3)." The Senate recedes.

The Senate, but not the House, defines "authorized public chartering agency." The House recedes.

#### *Authorization of Appropriations*

2. The House bill refers to "the fiscal years 1996, 1997, 1998, and 1999." The Senate amendment refers to "the 4 succeeding fiscal years." The House recedes with an amendment inserting "and approved by the Secretary" after "state law."

#### ARTS IN EDUCATION

##### *Findings*

The Senate amendment but not the House bill finds that participation in performing arts activities has proven to be an effective strategy for promoting the inclusion of persons with disabilities in mainstream settings. The House recedes.

The Senate amendment but not the House bill finds that opportunities in the arts have enables persons of all ages with disabilities to participate more fully in school and community activities. The House recedes.

4. The House bill, but not the Senate amendment, finds that the arts can motivate at-risk students to stay in school and become active participants in the educational process.

The Senate recedes.

##### *Purpose*

The House bill states that a purpose of the bill is to help ensure that all students have the opportunity to learn challenging standards in the arts. The Senate bill refers to State content standards and State student performance standards. The House recedes.

##### *Eligible Recipients*

The Senate amendment, but not the House bill, includes museums and other cultural institutions as eligible recipients. The House recedes.

##### *Authorized Activities*

The Senate amendment, but not the House bill, includes as an authorized activity supporting collaborative activities with Very Special Arts. The House recedes.

The House bill states that authorized activities include supporting model projects and programs in the arts for individuals with disabilities through arrangements with the organization, Very Special Arts. The Senate amendment states that authorized activities include supported model projects and programs developed by Very Special Arts which assure the participation in mainstream settings in arts and education programs of persons of all ages with disabilities. The House recedes with an amendment, striking "developed" and "of all ages" in paragraph (8).

##### *Coordination*

The Senate amendment, but not the House bill, include. Very Special Arts. Technical difference. The House recedes.

The Senate amendment, but not the House bill, states that if the amount appropriated for any fiscal year is \$9 million or less, such amount shall only be available to support model projects and programs developed by Very Special Arts which assure the participation in mainstream settings in arts and education programs of persons of all ages with disabilities and such projects and programs in the performing arts for children and youth through arrangements made with the John F. Kennedy Center for the Performing Arts. The House recedes.

#### INEXPENSIVE BOOK DISTRIBUTION PROGRAM

##### *Authorization*

The Senate amendment, but not the House bill, refers to (RIF). The House recedes.

#### *Requirements of Contract*

The House bill refers to "children up through high school age, including those in family literacy programs." The Senate amendment refers to "children from birth through secondary school age." The House recedes with an amendment, adding "including those in family literacy programs" after "secondary school age."

The House bill, but not the Senate amendment, refers to children with disabilities "including those with serious emotional disturbance." The House recedes.

#### *Definition of Federal Share*

The Senate amendment, but not the House bill, refers to 100 percent "of such costs to the subcontractor." The House recedes.

The House bill states that the federal share "shall not exceed 75 percent." The Senate amendment states that the federal share shall be 75 percent. The House recedes.

The House bill authorizes \$10.3 million for Fiscal Year 1995 and such sums for 1996, 1997, 1998 and 1999. The Senate amendment authorizes \$11 million for Fiscal 1995 and such sums for each of the four succeeding fiscal years. The Senate recedes.

#### CIVIC EDUCATION

##### *General Authority*

The House bill says the Secretary "shall." The Senate amendment says the Secretary "is authorized." The House recedes.

##### *Contract or Grant Authorized*

The House bill refers to "the program required by paragraph (1). The Senate amendment refers to "the program described in paragraph (1). The House recedes.

##### *Special Rule*

The House bill refers to "advanced training of teachers in civics and government." The Senate amendment refers to "advanced training of teachers about the United States Constitution and the political system of the United States created." The House recedes.

The Senate amendment, but not the House bill, refers to a course of instruction in the middle school level. The House recedes.

##### *Program Established*

The House bill says the Secretary "shall." The Senate amendment says the Secretary "is authorized." The House recedes.

The House bill refers to "challenging content standards." The Senate amendment refers to "challenging State content standards and challenging State student performance standards." The House recedes.

##### *Authorized Activities*

The House bill refers to "our system of government." The Senate amendment refers to "our Nation's system of government." The House recedes.

The Senate amendment, but not the House bill, refers to "respect for cultural diversity and acceptance of cultural differences." The House recedes.

##### *Report*

The Senate amendment, but not the House bill, refers to section 10701. The Senate recedes.

##### *Authorization of Appropriations*

The House bill authorizes \$15 million for Fiscal 1995 and such sums for 1996, 1997, 1998, and 1999. The Senate amendment authorizes \$20 million for Fiscal 1997 and such sums for each of the succeeding four fiscal years. The Senate recedes.

The House bill allocates 40% for section 3701 and 60% for section 3702. The Senate amendment allocates 50% for section 8251 and 50% for section 8552. The Senate recedes.

#### *Native Hawaiian Education Findings*

The Senate amendment, but not the House bill, notes the decline in the Native Hawaiian population from 1778 to 1921. The House recedes.

The House bill, but not the Senate amendment, refers to the Act of June 20, 1938, where the U.S. Congress acknowledged the unique status of the Hawaiian people. The Senate recedes.

The House bill, but not the Senate amendment, refers to the U.S. establishing educational programs to benefit Native Hawaiians. The Senate recedes.

The House bill refers to "the Native American Programs Act of 1992, as amended" and the "National Historic Act Amendments of 1992". The Senate amendment refers to "the National Museum of the American Indian Act", "National Historic Preservation Act", and the "Native American Languages Act." The House recedes with an amendment to combine the House and Senate provisions.

The House bill lists the special provisions the U.S. Congress has passed recognizing the trust relationship between the U.S. and the Native Hawaiian people. The Senate amendment simply states "numerous special provisions of law for the benefit of Native Hawaiians in the areas of health, education, labor, and housing. The House recedes.

The House bill, but not the Senate amendment, recognizes that a lower educational attainment among Native Hawaiians has been related to lower socioeconomic outcomes. The House recedes.

The House bill, but not the Senate amendment, indicates that native Hawaiian students are disproportionately under-represented in Institutions of Higher Education. The House recedes.

The House bill, but not the Senate amendment, states that Native Hawaiians are under-represented in traditional white collar and health care professions, while being over-represented in service occupations. The House recedes.

The Senate amendment, but not the House bill, refers to the 1988 enactment of title IV of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988. The House recedes.

The House bill and the Senate amendment, in similar, yet not identical, language refer to native Hawaiian children's educational risk factors. The House recedes.

The House bill, but not the Senate amendment, states "special efforts in education recognizing the unique cultural and historical circumstances of Native Hawaiians are required." The House recedes.

The Senate amendment, but not the House bill, refers to the under-presentation of Native Hawaiians in institutions of higher education and among adults who have completed four or more years of college. The House recedes.

The Senate amendment, but not the House bill, refers to high retention and absenteeism rates among Native Hawaiian students. The House recedes.

The Senate amendment, but not the House bill, states that Native Hawaiian students are the highest drug and alcohol users. The House recedes with amendment, adding "in the State of Hawaii" after "alcohol" in paragraph (11).

The Senate amendment, but not the House bill, states that Native Hawaiian children continue to be disproportionately victimized by child abuse and neglect. The House recedes.

The Senate amendment, but not the House bill, refers to the 23% of the students served by the State of Hawaii's Department of Education and their residence in rural, isolated areas. The House recedes.

The Senate amendment, but not the House bill, refers to contradictions between findings listed in paragraphs (1) through (15) and the high rate of literacy and integration of traditional culture and Western education achieved by Native Hawaiians through a Hawaiian language-based public school system. The House recedes.

The Senate amendment but not the House bill, refers to the "Native Hawaiian Educational Assessment Project" released in 1983 by the Office of Education to Congress and its findings. The House recedes.

The Senate amendment but not the House bill, notes that the Kamehameha Schools Bishop Estate released a ten-year update of the Native Hawaiian Educational Assessment Project. The House recedes.

The Senate amendment but not the House bill, mentions the banning of Hawaiian medium schools. The House recedes.

The Senate amendment but not the House bill, refers to the Native Hawaiians' determination to "preserve, develop, and transmit to future generations their ancestral territory." The House recedes.

The Senate amendment but not the House bill, refers to the distinct land rights of the Native Hawaiian people. The Senate recedes.

The Senate amendment but not the House bill, mentions the distinct land rights of Native Hawaiians and their unique religious customs and beliefs. The House recedes.

The Senate amendment but not the House bill, recognizes the traditional language of the Native Hawaiian people as an official language of the State of Hawaii. The House recedes.

#### *Purpose*

The House bill states educational programs are to "assist" Native Hawaiians in "reaching the National Educational Goals". The Senate amendment simply states educational programs are to "benefit" Native Hawaiians. The Senate recedes.

The Senate amendment but not the House bill, refers to the establishment of a Native Hawaiian Education Council and five island councils. The House recedes.

The House bill states the purpose of this part includes the "encouragement of maximum participation of Native Hawaiians in planning and management of Native Hawaiian Education Programs." The Senate amendment refers to this concept in the findings. The Senate recedes.

#### *Establishment*

Both the House bill and the Senate amendment provide for a Native Hawaiian Education Council. The Senate amendment, but not the House bill, includes the provision for island councils. The House recedes.

#### *Composition*

The Senate amendment but not the House bill, states the Educational Council shall consist of not more than 25 members. The House recedes.

The House bill, but not the Senate amendment, states the composition of the council shall consist of, "but not be limited to", "representatives of each of the programs which receive Federal funding under this part"; "a representative from the Office of the Governor"; "a representative from the Office of Hawaiian Affairs"; "representatives of other Native Hawaiian Educational organizations and Native Hawaiian organizations which receive Federal or state education

funds"; and "parent, student, educator and community organizations." The House recedes.

The Senate amendment but not the House bill, includes in its member list, "each recipient of funds from the Secretary under this part"; a representative from the Office of Hawaiian Affairs, Department of Education in Hawaii, and specifically mentioned educational organizations. The House recedes.

The Senate amendment but not the House bill, states a representative will serve on the council from "each Native Hawaiian education island council established under subsection (f)." The House recedes.

#### *Conditions and Terms*

The House bill indicates that at least half of the members shall be Native Hawaiians. The Senate amendment states that at least three-fourths of the members shall be Native Hawaiians. The House recedes.

The House bill states that members of the Education Council will serve for five-year terms. The Senate amendment states members will be appointed for three-year terms. The House recedes.

#### *Duties and Responsibilities*

The House bill and the Senate amendment state the Education Council will provide information to Congress. The Senate amendment, but not the House bill, specifically states particular entities to which the reports will be delivered. The House recedes.

The House bill, but not the Senate amendment, states that the Secretary shall, whenever practicable, consult with the Council before taking any significant action related to the education of Native Hawaiians. The House recedes.

#### *Administrative Provisions*

The House bill, but not the Senate amendment, makes a statement that the Council will meet at the call of the Chair, or upon the request of the majority of the Council. The Senate recedes.

The Senate amendment, but not the House bill, outlines the purpose of the administrative grant for the Education Council. The House recedes.

#### *Compensation*

The House bill, but not the Senate amendment, requires that compensation for service will not be given to any member of the Native Hawaiian Council. The Senate recedes.

#### *Report to Congress*

The House bill, but not the Senate amendment mandates a report to Congress not later than 4 years after the date of enactment of the Improving America's Schools Act. The Senate recedes.

#### *Establishment of Island Councils*

The Senate amendment, but not the House bill, introduces island councils and their composition. Specific administrative provisions, compensation, report requirements, and authorization of appropriations are described. The House recedes.

#### *Application Required*

The Senate amendment, but not the House bill, articulates the application required for a grant that is to be made to the Secretary in order to carry out the provisions of this part. The House recedes.

#### *Native Hawaiian Language Immersion Authority*

The House bill, but not the Senate amendment details a state-wide effort to revitalize the Native Hawaiian language. Administrative costs are set at no more than 7 percent of the funds appropriated. Authorized appro-

priations are to be \$1,500,000 for fiscal year 1995 and such sums as may be necessary for fiscal years 1996 through 1999. The House recedes.

#### *Native Hawaiian Family-Based Education Centers*

The Senate amendment, but not the House bill, states educational entities with "experience" in developing or operating Native Hawaiian programs. The House bill does not use "experience." The House recedes.

The House bill states that a minimum of eleven Family-Based Education Centers throughout the Hawaiian Islands be developed. The Senate amendment refers to no such minimum. The House recedes.

The Senate amendment, but not the House bill, articulates that the programs of such centers "may be conducted in either the Hawaiian language, the English language, or a combination thereof." The House recedes.

#### *Native Hawaiian Higher Education Demonstration Program*

The House bill, but not the Senate amendment, states that the Secretary shall make grants to the Kamehameha Schools/Bernice Pauahi Bishop Estate. The Senate amendment generalizes, stating grants will be given to Native Hawaiian educational organizations. The House recedes.

#### *Mandatory activities*

The Senate amendment, but not the House bill states mandatory activities include full or partial fellowship support for Native Hawaiian students enrolled in higher institutions of education. The House bill simply says "may include." The Senate recedes.

The Senate amendment, but not the House bill, includes "fellowship" in its conditions of recipients. The Senate recedes.

The Senate amendment, but not the House bill, includes a section titled "Permitted Activities" listing those which the House bill mentions under no such subsection. The Senate recedes.

The House bill, but not the Senate amendment, has a section titled "Grants Authorized." The House recedes.

The Senate amendment, but not the House bill, refers to the completion of a baccalaureate program. The House recedes.

The House bill, but not the Senate amendment, includes "within the State of Hawaii" after "Native Hawaiian community." The House recedes.

#### *Special Rule*

The House bill, but not the Senate amendment, includes a special rule that no policy be implemented to prevent a Native Hawaiian student enrolled at a higher education institution outside of the State of Hawaii from receiving a fellowship. The Senate recedes.

#### *Authorization of Appropriations*

The House bill, but not the Senate amendment, authorizes \$1,500,000 for fiscal year 1995 and such sums may be necessary for fiscal years 1996 through 1999 for funding fellowship assistance demonstration project provided under subsection (b). The House recedes.

#### *Native Hawaiian Gifted and Talented Program*

The House bill, but not the Senate amendment, states there will be an establishment of a Native Hawaiian Gifted and Talented Center at the University of Hawaii at Hilo. The Senate amendment does not specify a program at the University. The House recedes.

The House bill, but not the Senate amendment, specifies demonstration projects will be designed to address gifted and talented

students. The Senate amendment makes no reference to demonstration projects. The House recedes.

The House bill, but not the Senate amendment, details the terms of the grant or contract. The House recedes.

The House bill, but not the Senate amendment, states that "such grant or contract shall be subject to the availability of appropriated funds and, contingent on satisfactory performance by the grantee." The House recedes.

#### Uses of Funds

The Senate amendment, but not the House bill, specifies "Native Hawaiian" gifted and talented students. The House recedes.

The House bill, but not the Senate amendment, incorporates public television in meeting educational needs of gifted and talented children. The House recedes.

The Senate amendment, but not the House bill, refers to coordination with "other Native American gifted and talented programs." The House recedes.

#### Information Provision

The House bill, but not the Senate amendment, states the Secretary will establish a national network of Native Hawaiian and American Indian Gifted and Talented Centers and impart any information to the educational community. The Senate recedes with an amendment striking "shall" and inserting "is authorized to".

The House bill provides \$2,000,000 for fiscal year 1995 and such necessary sums for fiscal years 1996 through 1999. The Senate amendment provides \$1,500,000 for fiscal year 1995, and necessary sums for each of the succeeding 4 fiscal years. The House recedes.

#### Special Education Authority

The House bill, but not the Senate amendment, refers to Pihana Na Mamo, while the Senate amendment mentions general educational organizations. The House recedes.

The House bill uses "children"; the Senate amendment uses "students." The House recedes.

The Senate amendment, but not the House bill, refers to emotional impairments. The House recedes with amendment, striking "learning" and "mental or physical disabilities, emotional impairments."

The House bill, but not the Senate amendment, refers to children at the elementary school level. The House recedes.

The Senate amendment, but not the House bill, refers to part B of the Educational of Individuals with Disabilities Education Act. The House recedes.

The Senate amendment, but not the House bill, refers to "the conduct of educational, psychosocial, and developmental activities" of Native Hawaiian students. The House recedes.

The Senate amendment, but not the House bill, refers to "appropriate research, evaluation, and related activities." The House recedes.

The House bill, but not the Senate amendment, refers to the Secretary who may not make a grant or provide funds pursuant to a contract under this subsection. The House recedes.

The House bill, but not the Senate amendment, discusses non-Federal contributions. The House recedes.

#### Application Required

The House bill, but not the Senate amendment, refers to an "application required" to be submitted to the Secretary. The Senate recedes.

#### Definitions

The House bill and the Senate amendment have similar, but not identical, language de-

fining the term "Native Hawaiian". The House bill states specifically "a citizen of the United States", and a "resident of the State of Hawaii." The Senate recedes.

The House bill states "birth records of the State of Hawaii", where the Senate amendment merely states "certified birth records." The House recedes. The conferees intend that genealogical records should be defined to include birth, marriage and death records.

The House bill, but not the Senate amendment, mentions the term "Secretary" as meaning the Secretary of Education. The House recedes.

The House bill, but not the Senate amendment, refers to "demonstrated expertise in research and program development." The Senate recedes.

The House bill, but not the Senate amendment, includes the definition of a "Native Hawaiian Organization." The Senate recedes.

The House bill, but not the Senate amendment, includes the term "elementary school" as meaning the same as indicated section 9101 of the same act. The House recedes.

The Senate amendment, but not the House bill, refers to the definition of "Native Hawaiian language" and the term "Office of Hawaiian Affairs." The House recedes.

The Senate amendment, but not the House bill, refers to the definition of "Native Hawaiian community-based organization." The House recedes.

The House bill, but not the Senate amendment, includes the term "local educational agency." The House recedes.

The House bill, but not the Senate amendment, includes the term "secondary school." The House recedes.

The Senate amendment, but not the House bill, includes Native Hawaiian Curriculum Development, Teacher Training and Recruitment Program. Specifics mentioned are curricular development, preteacher training, in-service teacher training, and teacher recruitment. Administrative costs are to be not more than 7 percent of the funds appropriated for fiscal year 1995 and such necessary sums for each of the 4 succeeding fiscal years. The House recedes, with an amendment: in paragraph (b) PRIORITY: insert after "(a) that" a "(1)" and insert after "youth or" a "(2)" and add after the end of the sentence "provided that entities receiving grants awarded pursuant to (b)(2) of this subsection coordinate in the development of new curricula".

The Senate amendment, but not the House bill, refers to Native Hawaiian Community-Based Education Learning Centers. Authorization appropriations are to be \$1 million for FY 95, and such sums as may be necessary for each of the 4 succeeding fiscal years. The House recedes.

#### Allen J. Ellender Fellowship Program

The House bill refers to "physically challenged students, visually- and hearing-impaired students." The Senate amendment refers to "students with disabilities." The House recedes.

#### Contents of Application

The House bill refers to "physically challenged students, visually- and hearing-impaired individuals." The Senate amendment refers to "individuals with disabilities." The House recedes.

#### Authorization of Appropriations

18. The House bill authorizes \$4.4 million and such sums for each of the fiscal years 1996, 1997, 1998, and 1999. The Senate amendment authorizes \$4.5 million for Fiscal Year 1995 and such sums as may be necessary for

each of the four succeeding fiscal years. The Senate recedes.

#### Territorial Education Improvement Program

The House bill entitles the program the "Territorial Education Improvement Program. The Senate amendment entitles the program the "Territorial Teacher Training Program." The Senate recedes with an amendment inserting "deLugo" in the program title.

The House bill, but not the Senate amendment, has provisions for Findings and Purposes. The Senate recedes.

#### Authorization

The House bill authorizes \$5 million for each of the fiscal years 1994 through 1999. The Senate amendment authorizes \$2 million for Fiscal Year 1995 and such sums for each of the succeeding four fiscal years. The Senate recedes with an amendment changing the authorization from \$5 million to \$3 million.

#### Grant Authorization

The House bill authorizes "an education improvement program." The Senate amendment refers to "assisting teacher training programs." The Senate recedes.

The House bill authorizes "an education improvement program". The Senate amendment refers to "assisting teacher training programs." The Senate recedes.

The House bill refers to "Palau until the effective date of the Compact of Free Association with the Government of Palau." The Senate amendment refers to "Palau." The Senate recedes.

The House bill refers to the "Northern Mariana Islands." The Senate amendment refers to "the Commonwealth of the Northern Mariana Islands." The House recedes.

The Senate amendment also includes the Republic of the Marshall Islands and the Federated States of Micronesia. The House recedes.

The House refers to making "grants to fund innovative education improvement programs which will increase student learning." The Senate amendment refers to "grants or contracts with any organization considered qualified to providing training for teachers in such schools and shall allot such sums among such territories on the basis of the need for such training." The Senate recedes.

The House bill contains a section on restrictions. The Senate recedes.

#### Blue Ribbon Schools Program

The Senate amendment, but not the House bill, contains a provision authorizing a \$1 million Blue Ribbon Schools program. The Senate recedes with an amendment to move this to the Fund for the Improvement of Education.

#### National Student and Parent Mock Election

The Senate amendment, but not the House bill, contains a provision authorizing a \$125,000 National Student and Parent Mock Election Program. The House recedes with an amendment to place program in FIE and with an amendment in paragraph (a) to strike "in" after "grants" and to strike "election" after "every" and to strike the authorization of appropriations in subsection (c).

#### Elementary School Counseling Demonstration

The Senate amendment, but not the House bill, contains a provision authorizing \$1 million for an Elementary School Counseling Demonstration Act. The House recedes with an amendment, moving this program to FIE.

#### Model Projects

The Senate amendment, but not the House bill, contains a provision authorizing \$5 million for a Model Projects program for grants

to cultural institutions for outreach activities for at-risk children.

The House recedes with an amendment moving this program to FIE and striking the authorization of appropriations in subsection (c).

#### *Extended Time for Learning*

The Senate amendment, but not the House bill, contains a provision authorizing \$20 million for an Extended Time for Learning program.

#### *Longer School Year*

The Senate amendment, but not the House bill, contains a provision authorizing \$100 million for a Longer School Year incentive program.

#### *Creating Smaller Learning Communities*

8. The Senate amendment, but not the House bill, contains a provision authorizing \$20 million for a Creating Smaller Learning Communities program. The House recedes with an amendment moving this program to FIE.

#### *Partnerships in Character Education Pilot Project*

The Senate amendment, but not the House bill, contains a provision authorizing \$6 million for a Partnerships in Character Education Pilot Project. The House recedes with an amendment moving the program to FIE. See attached language at back.

#### *Alaska Native Education*

The Senate amendment, but not the House bill, contains a provision authorizing \$5 million for an Alaska Native Education program, \$2 million for an Alaska Native Home Based Education for Preschool Children program, and \$1,000,000 for an Alaska Native Student Enrichment Program. The House recedes, moving the provision to a new Title IX.

#### *Promoting Scholar-Athlete Competitions*

The Senate amendment, but not the House bill, contains a provision authorizing \$1 million for a program to promote Scholar-Athlete Competitions. The House recedes with an amendment to move it to FIE with language to appear as follows: "The Secretary is authorized to award a grant to a non-profit organization to reimburse such organization for the costs of conducting scholar-athlete games to be held in 1995. In awarding the grant the Secretary shall give priority to a non-profit organization that (A) is described in section 501(c)(3) of, and exempt from taxation under section 501(a) of, the Internal Revenue Code of 1986, and is affiliated with a university capable of hosting a large educational, cultural, and athletic event that will serve as a national model; (B) has the capability and experience in administering federally funded scholar athlete games; (C) has the ability to provide matching funds, on a dollar-for-dollar basis, from foundations and the private sector for the purpose of conducting a scholar-athlete program; and has the organizational structure and capability to administer a model scholar-athlete program the summer of 1995; (E) has the organizational structure and expertise to replicate the scholar-athlete program in various venues throughout the United States in 1996 and thereafter, as well as replicate such program internationally; and (F) has plans for conducting scholar-athlete games after 1995 without federal assistance."

#### *Cultural Partnerships for At-Risk Children and Youth Act of 1994*

The House bill part is entitled "Community Arts Partnership Act of 1994" while the Senate amendment part is entitled "Cultural

Partnerships for At-Risk Children and Youth Act of 1994." The House recedes.

The House bill refers only to the inadequacy of arts programs available for children in schools; the Senate amendment refers to "arts and cultural programs available for children and youth." The House recedes.

The House bill, but not the Senate amendment, finds that the arts promote progress in academic subjects as shown by research conducted by the National Endowment for the Arts. The Senate recedes.

The House bill, but not the Senate amendment, finds that the arts access multiple human intelligences and develop higher-order thinking skills. The House recedes.

The House bill, but not the Senate amendment, finds that the "arts generate self-esteem and positive emotional responses to learning." The Senate recedes with an amendment deleting 3502(a)(4) and inserting in lieu thereof: "Learning in the arts and humanities promotes progress in other academic subjects, and generates positive self-esteem and a greater sense of accomplishment in young people."

The House bill states only that "children who receive instruction in the arts remain in school longer and are more successful than children who do not receive such instruction"; the Senate amendment refers to children and youth who receive instruction in the arts and humanities, or who are involved in cultural activities. The House recedes.

The Senate amendment, but not the House bill, finds that "school-university partnerships that upgrade teacher training in the arts and humanities have significantly contributed to improved instruction and achievement levels of school-aged children." The House recedes with an amendment inserting "and school-cultural institution" after "school-university" and inserting a new paragraph after Senate section 11102(4) stating: "The Goals 2000: Educate America Act, other legislation and local, state and national resources support the integration of the arts and humanities into the regular curriculum and school day or all children. While all children benefit from this instruction in the arts and the humanities, at-risk children and youth have a special, additional need for arts and cultural programs both in school and after school."

The Senate amendment, but not the House bill, finds that museum outreach, cultural activities and informal education for at-risk children and youth have contributed significantly to their educational achievement. The House recedes.

The House bill includes a statement of purpose, the Senate amendment does not. The Senate amendment part is entitled "Subgrants" and involves grants from a Committee. The Senate recedes.

The House bill part is titled "Grants Authorized," the Senate amendment is titled "Award of Subgrants." The Senate recedes.

The House bill states that the "Secretary is authorized to award grants to eligible entities to pay the Federal share of the costs of activities" authorized under this title. The Senate amendment states that the Committee shall award subgrants to eligible entities. The Senate recedes.

The House bill part is entitled "Special Requirements" and states that the Secretary shall award grants under this Act to programs; the Senate amendment contains no such statement. The Senate recedes.

The House bill permits the Secretary to award grants to "programs designed to promote educational and cultural services"; the Senate speaks of "promoting and enhancing

educational and cultural activities." The House recedes.

The House bill permits the Secretary to award grants to programs designed to provide multi-year services to at-risk children and youth; the Senate amendment contains no such part. The Senate recedes with an amendment inserting "and to integrate community resources into in-school and after-school educational programs;" after "children and youth."

The Senate amendment, but not the House bill refers to a Committee which shall award subgrants to improve educational performance. The Senate recedes with an amendment striking all of Senate section 11103(a)(2).

The House bill, but not the Senate amendment, permits the Secretary generally to award grants to programs designed to serve the needs of at-risk children and youth. The House recedes.

The House bill permits the Secretary to award grants for programs designed to provide integration of community cultural resources in the regular curriculum; the Senate and the school day. The House recedes.

The House bill permits the Secretary to award grants to programs designed to "provide effective cultural linkages from preschool programs," including preschool grants under the Individuals with Disabilities Education Act, to elementary schools. The Senate amendment refers to the provision of cultural programs to "facilitate the transition from preschool programs to elementary school programs, including programs under the Head Start Act and part H of the Individuals with Disabilities Education Act." The House recedes.

The Senate amendment, but not the House bill, states that facilitation of school to work shall be done through educational programs and activities that utilize school resources. The House recedes.

The House bill permits the Secretary to award grants to programs designed to increase parental and community involvement in the development of at-risk youth. The Senate amendment states that such development shall be of at-risk children and youth. The House recedes.

The House bill permits the Secretary to award grants to programs designed to "replicate programs and strategies that provide high quality coordinated educational and cultural services and that are designed to integrate such coordination into the regular curriculum." The Senate amendment refers to the development of such programs and strategies that are designed also to replicate the services in other schools. The House recedes with an amendment striking Senate section 11103 (c)(1)(G)(ii) and inserting in lieu thereof: "provide a model to replicate these services in other schools and communities."

The Senate amendment, but not the House bill, refers to a Demonstration Program and states that the Secretary shall award all funds appropriated under this title to the Committee. The House recedes with an amendment striking Senate section 1103 (a)(1) and inserting in lieu thereof a paragraph entitled "Partnership" and stating: "An interagency partnership comprised of the Secretary of Education, the Chairman of the National Endowment for the Humanities, the Chairman of the National Endowment for the Arts, and the Director of the Institute of Museum Services, or their designees, shall establish criteria and procedures for awarding grants, including the establishment of panels to review the applications, and shall administer the grants program authorized by this Section. The Secretary shall

publish such criteria and procedures in the Federal Register."

The Senate amendment states that the Committee may reserve up to 5% of grant funds for administration and that grant recipients may also reserve 5% of grants for administration. The House bill has no such provisions. The House recedes with an amendment striking the word "Committee" and inserting in lieu thereof the word "Secretary."

The House bill part is entitled "Requirement of Coordination" and refers to grants received by the members of the partnership for purposes and target populations described into an integrated service delivery system located at a school, cultural or other community-based site accessible to and utilized by at-risk youth. The Senate amendment is entitled "Coordination" and does not refer to such an integrated service delivery system. The Senate recedes with an amendment eliminating "Requirement of" in the title of the subsection.

The House bill part is entitled "Duration" and states that grants made under this part may be renewable upon the Secretary's determination of satisfactory progress for a maximum of 5 years. The Senate amendment part is entitled "Renewal" and states that the Committee is to make the determination of satisfactory progress. The Senate recedes.

The House bill states that the "Secretary shall ensure an equitable geographic distribution" and an "equitable distribution to both urban and rural areas with a high proportion of at-risk youth." The Senate bill states that the "Committee, to the extent feasible, shall ensure an equitable geographic distribution of subgrants." The House recedes with an amendment striking the word "Committee" and replacing it in lieu thereof with the word "Secretary."

The House bill part is entitled "Eligibility" and the subpart entitled "Services for In-School Youth; the Senate amendment is entitled "Eligible Entities." The House recedes with an amendment adding "and after school" after "in-school" in Senate section 11103(a)(3)(A).

The House bill defines an "eligible entity" as a partnership between a Title I eligible LEA and an institution of higher education or cultural entity located within or accessible to the boundaries of the LEA. The Senate amendment defines an "eligible entity" to include an individual school eligible to participate in a schoolwide program, explicitly makes museums and local arts agencies eligible for such partnerships and requires that the entity partnering with a school or LEA be accessible to individuals within the local school district. The House recedes.

The House bill, but not the Senate amendment, explicitly permits "libraries, performing, presenting and exhibiting arts organizations; literary arts organizations" and local arts organizations to enter into partnerships. The Senate amendment, but not the House bill explicitly includes cultural institutions and local arts agencies. The Senate recedes with an amendment adding "state and" prior to the phrase "local arts organizations," and an amendment adding "cultural institutions;" before the word zoological.

The House bill requires that "private for-profit entities" have a history of training children and youth in the arts. The Senate amendment specifies an "effective history of training" such individuals in the arts or humanities. The House recedes with an amendment striking the word "effective."

The House bill makes Title I eligible LEAs eligible for partnerships for out of school

youth. The Senate amendment permits any LEA or schoolwide program eligible school to be so qualified. The House recedes with an amendment striking Senate section 11103(a)(3)(b).

The Senate amendment, but not the House bill, states that the families of students shall be served "to the extent practical." The House recedes.

The House bill, but not the Senate amendment includes in its target population out-of-school youth at risk of having limited future options as a result of teenage pregnancy, family migration or being a high school dropout. The Senate amendment refers to out-of-school children and youth at risk of disadvantages resulting from dropping out of school. The House recedes.

The House bill refers to at-risk youth; the Senate amendment refers to at-risk children and youth. The House recedes.

The House bill refers to ensuring the smooth transition of preschool children to elementary school, the Senate amendment refers to fostering such a transition. The House recedes.

The House bill includes as authorized activities, work with existing school personnel to develop curriculum materials and programs in the arts. The Senate amendment refers only to curriculum materials, not programs, in the arts. The Senate recedes.

The House bill includes as authorized activities, work with existing school personnel on staff development activities that encourage the integration of the arts into the curriculum. The Senate amendment does not refer to work with such school personnel. The Senate recedes.

The Senate amendment and the House bill refer to stipends for arts and humanities professionals to work with at-risk children and youth in schools. The House recedes with an amendment to Senate Section 11104(a)(8) striking the word "arts" and inserting in lieu thereof the word "artists."

The Senate amendment, but not the House bill, refers to training individuals who are not trained to work with children and youth. The House recedes.

The House bill refers to stipends for local artists work with at-risk children and youth; the Senate amendment refers to arts and humanities professionals working with such at-risk individuals. The House recedes.

The House bill states that the arts should be used to reform school practices; the Senate amendment refers to the arts and culture. The House recedes.

The House bill refers to appropriate equipment and necessary supplies. The Senate amendment refers to appropriate equipment or supplies. The House recedes.

The House bill requires the Secretary to give priority to eligible entities providing services beyond traditional school hours and refers to year round programs that provide services in the evenings and on weekends. The Senate version gives discretion to the Committee as to whether to give priority to programs extending beyond traditional school hours and does not refer to year round programs. The Senate recedes with an amendment striking Senate section 11103(c)(5).

The Senate amendment establishes a Committee comprised of 8 members of whom 2 shall be appointed by the Secretary of Education, 2 by the National Endowment for the Arts, 2 by the National Endowment for the Humanities and 2 by the Institute of Museum Services. The House bill contains no such provision. The Senate recedes.

The House bill part is entitled "Planning Grants," the Senate amendment is entitled "Planning Subgrants." The Senate recedes.

The House bill refers to applications made to the Secretary, the Senate amendment refers to awards by the Committee. The Senate recedes.

The House bill refers to applications made to the Secretary. The Senate amendment refers to applications made to the Committee. The Senate recedes.

The Senate amendment, but not the House bill, refers to applications submitted to the Committee. The Senate recedes.

The Senate amendment, but not the House bill, permits an individual school to apply for grants under this title. The House recedes.

The House bill, but not the Senate amendment, requires that applications describe the nature and location of sites where services will be delivered and a description of those services. The Senate recedes.

The Senate amendment, but not the House bill, requires that applications describe the training that will be provided to individuals who are not trained to work with children and youth and how teachers will be involved. The House recedes.

The House bill states that the amount of a grant may not be less than \$100,000 nor more than \$500,000 in the first year. The Senate amendment states that subgrants awarded under this title shall be of sufficient size, scope and quality to be effective. The House recedes.

The Senate amendment, but not the House bill, permits that the 20% of the non-federal share of programs required may include the provision of equipment. The House recedes.

The House bill, but not the Senate amendment restrict the scope of this section to amounts that exceed the amounts expended for such activities in the year preceding the year for which the grant is awarded. The Senate recedes.

The Senate amendment, but not the House bill, requires that the Secretary disseminates information concerning successful models under this title in consultation with the Committee. The House recedes with an amendment striking the language of Senate Section 11107 and inserting in lieu thereof: "The Secretary, in consultation with the Chairman of the National Endowment for the Humanities, the Chairman of the National Endowment for the Arts and the Director of the Institute of Museum Services, or their designees, shall submit successful models under this Title to the National Diffusion Network for its review."

The House bill authorizes \$75 million for FY 1995 and such sums as may be necessary for the each of fiscal years 1996, 1997, 1998, 1999. The Senate bill authorizes \$25 million for FY 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years. The House recedes with an amendment striking the term "\$20,000,000" and placing in lieu thereof "\$45,000,000."

The Senate amendment but not the House bill requires that before any appropriations are made for this title, \$177 million shall be appropriated for the National Endowment for the Humanities, \$170 million shall be appropriated for the National Endowment for the Arts and \$28 million shall be appropriated for the Institute of Museum Services. The Senate recedes.

The Senate amendment, but not the House bill, states that the Committee shall award subgrants under this title so as to ensure nonduplication of services provided by subgrant recipients and services provided by the National Endowment for the Humanities, the National Endowment for the Arts, and the Institute for Museum Services. The

House recedes with an amendment deleting the words "subgrant" and "subgrants" where they appear and inserting in lieu thereof "grant" or "grants" respectively and deleting the word "Committee" and inserting in lieu thereof the word "Secretary."

The Senate amendment, but not the House bill, states that the Committee is to establish and transmit to the Secretary criteria and procedures for awarding subgrants under this Title. The Secretary is to publish such criteria and procedures in the Federal Register. The Senate recedes.

The Senate amendment but not the House bill requires the involvement of a certified teacher or trained instructor in carryout the activities of subgrant. The Senate recedes.

#### TITLE VII BILINGUAL EDUCATION, LANGUAGE ENHANCEMENT AND LANGUAGE ACQUISITION PROGRAMS

1. The House bill names Title VII, "bilingual education programs". The Senate amendment names Title VII, "language enhancement and acquisition programs" and makes Part A, "bilingual education programs."

The Senate recedes with an amendment to title this part "Bilingual Education, Language Enhancement and Acquisition."

#### Findings

2. The House bill is entitled "Findings, Policy, and Purpose"; the Senate amendment is entitled "Findings. The House bill finds that language minority Americans speak virtually all world languages; the Senate amendment finds that many LEP students are different from their English proficient peers.

The Senate recedes on the House finding. The House recedes on the Senate finding.

3. The House bill, but not the Senate amendment, makes a statement in its findings with regard to the impact of federal immigration policies on limited-English proficient Americans.

The Senate recedes.

4. The House bill, but not the Senate amendment, states in its findings that language-minority Americans have limited education and low incomes.

The House recedes.

5. The House bill and Senate amendment have similar, but not identical, findings concerning a need to provide limited-English-proficient children full access to educational programs. The Senate amendment, but not the House bill, relates the findings to ways in which these children are not fully integrated into American society.

The House recedes.

6. The House bill describes in its findings the federal government's responsibilities to American Indians, Native Alaskans and Native Hawaiians. The Senate amendment describes in its findings the unique status of Native Americans and Native American languages.

The House recedes with an amendment to insert "including native residents of the territories and freely associated nations" after parentheses.

7. The House bill, but not the Senate amendment, describes the role of institutions of higher education in assisting language-minority students.

The Senate recedes with amendment striking "language-minority" and replacing it with "limited-English proficient."

8. The House bill states in its findings that this title is intended to help students master English and develop high levels of academic attainment. The Senate amendment states in its findings that a primary purpose of the title is to develop the English language.

The Senate recedes.

9. The House bill states in its findings that limited-English-proficient children can be helped through bilingual education and includes proficiency in more than one language. The Senate amendment states in its findings that the needs of limited-English-proficient children are met through specially designed programs.

The Senate recedes.

10. The House bill states in its findings that multilingual skills are necessary in today's interdependent world. The Senate amendment states in its findings that parent and community participation contribute to program effectiveness.

The House recedes and the Senate recedes so that the provisions may be combined by legislative counsel.

11. The House bill, but not the Senate amendment, states in its findings that educational technology should be utilized.

The Senate recedes.

12. The House and Senate amendments state, in similar, but not identical ways, the value of educational research.

The House recedes with an amendment after the last "education" in Senate language to add "of limited-English proficient children".

13. The House bill and Senate amendment describe, with minor differences, the value of using one's native language.

The House recedes.

14. The Senate amendment, but not the House bill, notes the federal government's responsibility in ensuring that states provide limited-English-proficient children equal educational opportunities.

The House recedes.

15. The Senate amendment, but not the House bill, notes the federal government's obligation to assist states in meeting their requirements to provide equal educational opportunities.

The House recedes.

16. The House bill and Senate amendment provide identical descriptions for "policy", with the following exceptions: the Senate amendment, but not the House bill, makes reference to "consortia of local educational agencies"; the House bill, but not the Senate amendment, references "language minority" children.

The House recedes with an amendment deleting "and consortia of local educational agencies."

17. The House bill and Senate amendment have technical differences with respect to how "purpose"/"policy" are set forth. The Senate amendment describes the following under the section, "policy": to educate eligible children to high academic standards; to develop their English; to develop bilingual skills; and to apply these goals to Native American groups. The House bill describes the following under the section "purpose": to educate eligible children to high academic standards through improved bilingual education programs, through improved data, through research and dissemination, and through improved training of educators.

The House and Senate recede to combine the provisions as follows: delete "language minority and"; to insert "content standards and challenging state student" before standards; to insert (2) develop bilingual skills and multicultural understanding; (3) develop the English of such children and youth and, to the extent possible, the native language skills of such children and youth; (4) provide similar assistance to Native Americans with certain modifications relative to the unique status of Native American languages under

Federal law; and redesignate the remaining paragraphs.

#### Authorization of Appropriations

18. The House bill section is entitled "authorization of appropriations; the Senate amendment is entitled "policy; authorization of appropriations." The House bill, but not the Senate amendment, reserves at least 25 percent for Part C.

The Senate recedes.

#### Definitions

19. The House bill, but not the Senate amendment, includes in the subheading of, "definitions", "regulations".

The Senate recedes.

20. The House bill and Senate amendment define, "Native language" in identical fashion, except the House bill applies the term to "individual", whereas the Senate amendment applies the term to "individual of limited-English-proficiency".

The House recedes.

21. The House bill defines (and generally uses throughout the title in conjunction with "limited-English-proficient") "language-minority" to describe individuals whose native language is not English, whose home environment is other than English or an individual who is Native American. No comparable Senate provision.

The House recedes.

22. The House bill defines "limited-English-proficient" as a language-minority person with limited ability to communicate in English." The Senate amendment defines its equivalent term, "limited-English proficiency and limited-English-proficient", as one who is not born in the States, or whose native language is other than English (including migratory persons), or is a Native American, and who therefore has difficulty communicating in English.

The House recedes with an amendment adding "or is a native resident of the territories and freely associated nations" after "Alaska Native."

23. The House bill defines "bilingual education" as a teaching method which makes instructional use of English and the native language. The Senate amendment defines "bilingual education program" as a teaching method conducted in English, the native language or both, which helps students achieve proficiency in English and "to the extent practicable" their native language in order to achieve high standards.

The Senate recedes.

24. The House bill defines "special alternative instructional program" as distinct from "bilingual education". No comparable provision in the Senate amendment.

The Senate recedes.

25. The House bill defines "family education program" as a program designed for adults and out-of-school youth. No such provision in the Senate amendment.

The Senate recedes with amendment to include Parents as Teachers and HIPPI after Even Start Literacy Program in paragraph (6) and to add "s" to "model" in the same sentence.

26. The House bill defines "institution of higher education". No comparable provision in the Senate amendment.

The Senate recedes on the provision and its placement is left to legislative counsel.

27. The House bill defines "office." No comparable provision in the Senate amendment.

The Senate recedes.

28. The House bill defines "community college". No comparable provision in the Senate amendment.

The Senate recedes on the provision and its placement is left to legislative counsel.

29. The House bill defines "paraprofessional". No comparable provision in the Senate amendment.

The Senate recedes.

30. The House bill and Senate amendment define "other programs for persons of limited-English-proficiency" similarly, except the Senate amendment adds that it must directly involve bilingual education activities.

The Senate recedes.

31. The House bill defines "community-based organization". No comparable provision in the Senate amendment.

The Senate recedes with an amendment including "of demonstrated effectiveness" in paragraph (12) after "community-based organization." The placement of this paragraph is to be determined by Legislative Counsel.

32. The House bill and Senate amendment are similar in the definition of "immigrant children and youth", but the Senate amendment applies the term to children who have been attending a school or schools in the States for not more than "three" years, when the House applies this to children who have attended school in the U.S. for not more than "two" years.

The House recedes.

33. The Senate amendment defines "director". No comparable provision in the House bill.

The House recedes.

34. The Senate amendment defines "jurisdiction where a Native American language has official status". No comparable provision in the House bill.

The Senate recedes.

35. The Senate amendment defines "Native American and native American language". No comparable provision in the House bill.

The House recedes.

36. The Senate amendment defines "Native Hawaiian or Native American Pacific islander native language educational organization". No comparable provision in the House bill.

The House recedes.

37. The House bill, but not the Senate amendment, requires the Secretary to consult with State representatives and others in developing regulations under this Title.

The Senate recedes.

38. Both bills have similar detailed provisions regarding parental notification. The House bill, but not the Senate amendment, makes the following additional requirements: information on assessments of a child; information on programs; information on the instructional goals of the language programs for language minority children; and that a student's surname may not be the sole basis for program participation.

The Senate recedes with two amendments: in paragraph (2), change "disabled student" to "student with a disability" and in subparagraph (A), change the first line to "the benefits, nature, and past academic results".

39. The House bill and Senate amendment are identical in their descriptions of "eligible entities", except for technical differences to conform to the different terms of each bill.

The House recedes with an amendment to include "post-secondary schools" after "secondary schools" in paragraph (a).

40. The House bill authorizes payments to be made to schools operated or funded by the Bureau of Indian Affairs and exempts Indian and Alaskan native controlled schools from the requirement to submit applications to SEA (see section 7106(a)(2)). The Senate amendment authorizes any of the named entities referred to as an "eligible entity" (such as "Indian tribe") on the preceding

page and authorizes such entity to apply directly to the Secretary (i.e. without a requirement to submit the application first to the SEA).

The House recedes.

41. The House bill, but not the Senate amendment, requires the Assistant Secretary of the Interior, in collaboration with the Secretary of Education, to provide a yearly report to the Congress on how well Indian children are served under the purposes of this Title.

The House recedes.

42. The House bill, but not the Senate amendment, defines "local educational agency" as one which includes the preservation of native language when applied to Guam.

The Senate recedes.

43. The House titles Part A, "bilingual education capacity and demonstration grants"; the Senate titles the subpart, "financial assistance for bilingual education."

The Senate recedes.

#### *Purpose of Grants*

44. The House bill titles the section, "purpose of grants"; the Senate amendment titles it "financial assistance for bilingual education." The House bill states that the purpose of bilingual education grants is to develop capacity of local educational agencies, institutions of higher education and community-based organizations in delivering programs to assist language minority children. The Senate amendment states that the purpose of bilingual education grants is to assist local educational agencies in helping their limited-English proficient children acquire English, attain high education standards, and develop proficiency in their Native language, where possible.

The House recedes with two amendments: insert "institutions of higher education, and community-based organizations" after "local educational agencies" in the first sentence of subsection (a) and insert "through bilingual education or special alternative instruction" after "high-quality instruction" in paragraph (1).

#### *Program Development Grants*

45. The House bill authorizes "program development and implementation" grants with awards of up to \$100,000 annually for up to 4 years. The Senate amendment authorizes "development and enhancement" grants under a single authority, with no dollar amount specified, for up to 3 years.

The Senate recedes with an amendment to delete "with 1 additional year upon the Secretary's approval" and to delete "up to \$100,000 annually".

46. The House bill requires that the following activities be provided under these grants: developing and implementing bilingual and special alternative programs which are coordinated with the relevant programs and services; in-service training. No comparable language in Senate amendment.

The Senate recedes.

47. The House bill allows the following activities under these grants: family education programs; upgrading the instructional program. Comparable language in the Senate amendment appears under "use of funds", page 34(b). The Senate recedes with an amendment to delete (b)(3)(A) and (b)(3)(B) and replace them with:

(A) Implementing parent outreach and training activities and family education programs and activities designed to assist parents to become active participants in the education of their children;

(B) Improving the instructional program for limited-English-proficient students by

identifying, acquiring and upgrading curriculum, instruction materials, educational software and assessment procedures and, if appropriate, applying educational technology;

(C) Compensating personnel, including teacher aides who have been specifically trained, or are being trained to provide services to children and youth of limited-English proficiency;

(D) Providing tutorials and academic or career counseling for children and youth of limited-English proficiency; and

(E) Providing such other activities, related to the purposes of this part, as the Secretary may approve.

48. The House bill makes eligible, local educational agencies, or community-based organizations whose applications have been approved by LEAs. Comparable language in the Senate amendment (see the first paragraph of this subpart, page 16(b)) makes eligible local educational agencies or community-based organizations in consortia with an LEA and an institution of higher education.

The Senate recedes with an amendment inserting "or an institution of higher education" after the second time that "community-based organization" appears in subsection (c).

49. The House bill, but not the Senate amendment, requires that grants be equally distributed, to the extent practicable, among the three education levels specified.

The Senate recedes with an amendment changing subsection (d) to: "In awarding grants, the Secretary shall, to the extent practicable, give due consideration to early childhood education, elementary education and secondary education programs."

#### *Program Enhancement Grants*

50. The House bill authorizes "program enhancement grants" with awards up to \$100,000 annually for 2 years. The Senate amendment includes "enhancement grants" with "development grants" as a single authority.

The Senate recedes with an amendment deleting "of up to \$100,000" in subparagraph (1).

51. The House bill requires that funds be used to provide in-service training. No comparable provision in the Senate amendment.

The Senate recedes.

52. The House bill allows grants to be used for improving instructional programs, for implementing family education programs and for providing intensified instruction. Comparable language in the Senate amendment appears under "use of funds", page 34(b).

The Senate recedes with an amendment to delete (b)(3)(A) and (b)(3)(B), redesignate (b)(3)(C) as (b)(3)(F) and insert:

(A) Implementing parent outreach and training activities and family education programs and activities designed to assist parents to become active participants in the education of their children;

(B) Improving the instructional program for limited-English-proficient students by identifying, acquiring and upgrading curriculum, instructional materials, educational software and assessment procedures and, if appropriate, applying educational technology;

(C) Compensating personnel, including teacher aides who have been specifically trained, or are being trained to provide services to children and youth of limited-English proficiency;

(D) Providing tutorials and academic or career counseling for children and youth of limited-English proficiency; and

(E) Providing such other activities, related to the purposes of this part, as the Secretary may approve.

53. The House bill makes eligible, local educational agencies, or community-based organization whose applications have been approved by the LEA. Comparable language in the Senate amendment (see the first paragraph of this subpart, page 16(b)) makes eligible, local educational agencies or community-based organizations in consortia with an LEA and an institution of higher education.

The Senate recedes with an amendment inserting "or institutions of higher education" after "community-based organizations" in the second sentence of subsection (c).

#### Whole School Programs

54. The House bill authorizes "whole-school program" grants for restructuring all relevant programs in a school. The Senate amendment authorizes "comprehensive school grants" for implementing schoolwide bilingual education.

The Senate recedes with an amendment changing the section title to "Comprehensive School Grants"; inserting "implement schoolwide bilingual programs or special alternative instruction programs for reforming, restructuring, and upgrading" after "eligible applicants to"; deleting "to fulfill" to the end of the sentence and inserting "that serve all (or virtually all) children and youth in limited-English proficiency in schools with significant concentrations of such children and youth."

55. The House bill authorizes 5-year grants of up to \$100,000 in the first year and up to \$250,000 in subsequent years. The Senate amendment authorizes the grants for "not more than" 5 years, without an amount specified.

The Senate recedes with an amendment deleting the monetary amounts and the reference to the "subsequent 4 years".

56. The Senate amendment, but not the House bill, provides for terminating a grant if the school fails to help students achieve academic standards or, in the case of dual language facility, fails to promote such facility.

The House recedes with an amendment adding "not making adequate progress toward" achieving challenging standards after "taught to and".

57. The House bill requires in-service training activities. The Senate amendment allows, but does not require such activities (see page 34(b)).

The Senate recedes.

58. The House bill allows activities in the area of instructional improvement, family education and intensified instruction. Comparable language in the Senate amendment appears under "use of funds", page 34(b).

The Senate recedes with an amendment deleting subparagraphs (A) and (B) and changing (C) to (F) and inserting the following:

(A) Implementing parent outreach and training activities and family education programs and activities designed to assist parents to become active participants in the education of their children;

(B) Improving the instructional program for limited-English-proficient students by identifying, acquiring and upgrading curriculum, instructional materials, educational software and assessment procedures and, if appropriate, applying educational technology;

(C) Compensating personnel, including teacher aides who have been specifically trained, or are being trained to provide services to children and youth of limited-English proficiency;

(D) Providing tutorials and academic or career counseling for children and youth of limited-English proficiency; and

(E) Providing such other activities, related to the purposes of this part, as the Secretary may approve.

59. The House bill requires that in the first year of a grant, priority be given to preparatory activities. The Senate amendment allows, but does not give priority to such activities (see page 34(c)).

The Senate recedes with an amendment replacing paragraph (4) with the following:

(4) An applicant, before carrying out a program shall plan, train personnel, develop curriculum and acquire or develop materials.

60. Both the House bill and the Senate amendment make eligible local educational agencies.

Leave to Legislative Counsel to determine the placement of this provision.

#### System-wide Improvement Grants

61. The House bill authorizes "system-wide improvement grants" for reforming relevant programs in a local educational agency. The Senate amendment authorizes "comprehensive district grants" for implementing district-wide bilingual education programs.

The Senate recedes on the section title. The Senate recedes with an amendment on the rest of the provision. Replace (a) with:

"(a) PURPOSE.—The purpose of this section is to implement district-wide bilingual education programs or special alternative instruction programs to improve, reform, and upgrade relevant programs and operations within an entire local educational agency that serve a significant number of children and youth of limited-English proficiency in local educational agencies with significant concentrations of such children and youth."

62. The House bill authorizes grants for 5 years, with up to \$1m in the first year and up to \$5m in subsequent years. The Senate amendment authorizes grants for "not more than 5 years", with no amount specified.

The Senate recedes with an amendment deleting the dollar amounts and references to "the first year" and "each of the subsequent 4 years."

63. The Senate amendment provides for conditions under which the grant shall be terminated. No comparable provision in the House bill.

The House recedes with an amendment adding "not making adequate progress toward" after "taught to and".

64. The House bill lists a variety of activities that may be funded under the grant and clarifies that the first year of funding may be used exclusively for preparatory activities. Comparable language in the Senate amendment appears under "use of funds", pages 34(b) and (c).

The Senate recedes with an amendment to strike (E), (F), and (G) in the paragraph on how grants may be used insert the following after (D):

(E) parent outreach and training activities and family education programs and activities designed to assist parents to become active participants in the education of their children;

(F) the instructional program for limited-English-proficient students by identifying, acquiring and upgrading curriculum, instructional materials, educational software and assessment procedures and, if appropriate, applying educational technology;

(G) tutorials and academic or career counseling for children and youth of limited-English proficiency; and

(H) such other activities, related to the purposes of this part, as the Secretary may approve.

65. The House bill specifies that local educational agencies, applying alone or in consortia with other entities, are eligible for grants. The Senate amendment makes eligible local educational agencies

The Senate recedes.

66. The House bill gives priority to applicants serving high concentrations of limited-English proficient students or consortia serving students in rural settings.

The House recedes.

#### Applications

67. The House bill requires applicants to submit applications, developed in consultation with an advisory council, to the Secretary. A copy of the application is required to be sent to the State educational agency, which may submit written comments to the Secretary. If SEA submits comments on any application, it must submit on all in that category.

The Senate amendment requires an applicant to submit applications, developed in consultation with an advisory council (see page 27(b)) to the Secretary through the State educational agency. The SEA must comment on the need for the program and on how the application is consistent with the State plan under Title I.

The House recedes with an amendment on the application provision.

The House bill exempts Indian-controlled schools from submitting a copy of the application to the SEA.

The Senate recedes.

68. The House bill and Senate amendment have identical requirements under "contents" applicable to all applicants. The House bill, but not the Senate amendment, also makes reference to the Goals 2000 bill; requires involvement of parents; requires student outcomes; requires promotion of coordination of services for students and their families; requires description of collaborative efforts; requires a budget.

The Senate recedes except on question of reference to Goals 2000, with an amendment on (iv) to delete "in the expected student outcomes", replacing it with "in high academic standards." The House recedes on the reference to Goals 2000 with the following amendment: "(ii) is coordinated with other programs under this Act, the Goals 2000 Act, and other acts, as appropriate, as specified in section . . . , Title . . . "; strike "local educational agency" after "any state."

69. The House bill and Senate amendment requires additional activities as follows:

Under "program development and implementation" grants and "whole school programs" grants, the House bill requires applicant to describe instructional programs, in-service training and family education programs. Under "enhancement grants", the House bill requires a description of the existing program and how it will be enhanced.

Under "comprehensive school" and "comprehensive district" grants, the Senate amendment requires applicants to describe current services and how the proposed services will be supplemental; integration of funds; achievement goals; assurances that the program is integrated and that the program has been developed with an advisory council.

The House recedes with an amendment changing "subsection (c) or (d)" to "section 7104 or 7105" and adding "(v) current family education programs if applicable."

70. The House bill, but not the Senate amendment, establishes conditions which must be met before the Secretary may approve a proposal, such as meeting the needs of children in non-profit private schools.

The Senate recedes.

The House bill requires that the Secretary approve a grant only if he determines the program will use staff proficient in the language or languages used for instruction; the Senate amendment requires that the applicant assure that teachers employed in such programs be proficient in English (both written and oral).

The Senate recedes on the House provision. The House recedes on the Senate provision.

71. The House bill, but not the Senate amendment, specifies that students may participate in the program for the duration of the program.

The House recedes.

72. The House bill, but not the Senate amendment, establishes a priority for programs which develop bilingual proficiency.

The Senate recedes with an amendment adding "in English and another language" after "bilingual proficiency".

73. The House bill limits to 25% the amount that may be given to any grant category which does not utilize the native language for instruction. The Senate amendment limits to 25% the amount that may be given to grants awarded under "development and enhancement" grants and "comprehensive school" grants which do not utilize the native language for instruction.

The Senate recedes.

74. The House bill states "notwithstanding paragraph (3) (special alternative programs)," while the Senate amendment states "notwithstanding paragraphs (1) and (2) (development and enhancement grants and comprehensive school grants)."

The Senate recedes.

74a. The Senate amendment, but not the House bill, applies the term, "qualified", to personnel.

The House recedes.

75. The House bill requires the Secretary to consider collaborative activities, when approving a grant. The Senate amendment authorizes collaborative activities and consortia.

The House recedes.

76. The House bill requires that the Secretary ensure that the needs of school systems of all sizes, in all parts of the country be addressed. (For comparable Senate amendment provision, see note #81.)

The House recedes.

77. The House bill, but not the Senate amendment, requires the Secretary to give priority to programs which assist in certifying personnel.

The Senate recedes with an amendment striking "priority" and inserting "due consideration".

#### *Intensified Instruction*

78. The House bill, but not the Senate amendment, authorizes and describes "intensified instruction" activities such as capacity building.

The Senate recedes.

79. The Senate amendment, requires that, to the extent possible, the Secretary increase funds for grants awarded under "comprehensive school" and "comprehensive district" grants in subsequent years.

The Senate recedes.

#### *Subgrants*

##### *Geographic Distribution of Funds*

80. The House bill and Senate amendment both provide for geographic distribution of grants. The Senate amendment, but not the House bill, adds to the requirement that consideration be given to areas with significant increases in limited-English-proficient children. The Senate amendment also gives con-

sideration to the needs of all sizes of schools systems and geographic settings.

The House recedes with an amendment replacing (f) with "Priority on Funding.—The Secretary shall give priority to applications under this section from; replacing paragraph (1) with "applicants which enroll a large percentage or large number of limited-English proficient students; and"; inserting "including those" after "youth" in paragraph (2); and striking "full" in paragraph (3) and inserting "and urban" after "rural".

##### *Programs in Puerto Rico*

81. The House bill and Senate amendment both provide that programs serving children in Puerto Rico may be designed for children of limited Spanish proficiency. The Senate amendment, but not the House bill, also includes under this provision that programs may be designed for children studying Native American languages, provided one of the outcomes is increased English proficiency.

The House recedes with an amendment to include Native Pacific Islanders.

##### *Evaluations*

82. The House bill requires grant recipients to provide the Secretary an evaluation of its program and how it shall be used for purposes such as program improvement. Components to be used in such evaluation include: student outcome indicators, program implementation indicators, the relationship of the program to all other activities within the school.

The Senate recedes with an amendment replacing (1) with "how students are achieving the State performance standards, if any, including date comparing children and youth . . . proficiency."

83. The Senate amendment lists the activities that may be funded for all three grant categories as follows: acquisition of curricular materials, parent outreach, salaries, tutorials and career counseling, other activities related to the purposes of this part. The Senate amendment lists the following additional activities that may be funded under comprehensive school and comprehensive district grants: pre-service and in-service staff development; preparatory activities for the first full year of funding.

The Senate recedes.

84. The Senate amendment, but not the House bill, makes clear that a local educational agency serving children under this part are not prohibited from serving other children with similar needs in the same setting.

The House recedes.

##### *Part B (Subpart 2)—Research and Dissemination*

85. The House bill titles the part, "research and dissemination"; the Senate titles it "research and evaluation"; The House bill titles the section "use of funds"; the Senate titles it "authority. Both bills provide for data collection, dissemination research and evaluation, with the House bill requiring that the activity be done through the Office of Bilingual Education and Minority Languages Affairs.

The House recedes on the title with an amendment to entitle this part (or subpart) "Research, Evaluation, and Dissemination" and with the amendment such that the provision reads:

##### *"Part B—Research, Evaluation, and Dissemination*

##### *"Section 7201. Authority*

"(a) IN GENERAL.—The Secretary is authorized to conduct data collection, dissemination, and research, and shall conduct ongo-

ing data evaluation activities in accordance with the provisions of this part for the purposes of improving bilingual education and special alternative instructional programs for children and youth of limited-English proficiency.

"(b) COMPETITIVE AWARDS.—Research and evaluation activities carried out under this part shall be supported through competitive grants, contracts, and cooperative agreements to institutions of higher education, non-profit organizations, and State and local education agencies.

##### *"Section 7122. Research Activities*

"(a) ADMINISTRATION.—The Secretary shall conduct data collection, dissemination, and ongoing program evaluation activities authorized by this part through the Office of Bilingual Education and Minority Language Affairs."

##### *Research*

86. The House bill requires, the Senate amendment allows, research to be supported through competitive grants, contracts, and cooperative arrangements.

The Senate recedes with an amendment to read:

##### *"Section 7202.—Research*

"(a) ADMINISTRATION.—The Secretary shall conduct research activities authorized by this part through the Office of Educational Research and Improvement in coordination and collaboration with the Office of Bilingual Education and Minority Language Affairs."

87. The House bill describes ten areas in which the Secretary is authorized to conduct research. The Senate amendment requires, as appropriate, that the Secretary conduct through OERI, research on techniques for teaching multilingual classes and for teachers who do not know the native language of students and for the dissemination of such research.

The House recedes with an amendment on the research provision.

88. The House bill, but not the Senate amendment, requires that at least 5% of research funds be made available for research initiated by recipients of grants under Part A or C of this Title.

The Senate recedes.

89. The House bill requires that research activities be coordinated with OERI.

The House recedes.

90. The House bill, but not the Senate amendment, provides for collaborative research activities between OERI and OBEMLA.

The House recedes.

91. The House and Senate have identical provisions with respect to academic excellence awards, except that the House bill extends the promotional activities to "special alternative instruction programs" and "professional development programs".

The Senate recedes.

##### *State Grant Program*

92. Both bills establish similar state grant programs, except the House bill, but not the Senate amendment, requires that the plan comport with either the plan under Goals 2000 or under Title I of this Act.

The House recedes with an amendment inserting "through its own programs and other federal education programs," after "that such agency".

93. The House bill requires funds be used for certain activities with the Senate amendment allows funds to be used for these activities.

The Senate recedes.

94. Similar provisions to allow data collecting on LEP youth by SEA, except the House bill also allows data collection on services to LEP youth.

The Senate recedes with an amendment striking "language minority and".

95. The Senate amendment, but not the House bill, allows funds to be used for operating an advisory council, as required by subsection (d).

The Senate recedes.

96. The House bill, but not the Senate amendment, exempts States from data collection if such a system does not exist and requires the State to comply if it implements such a system for all students.

The Senate recedes.

97. The House bill, but not the Senate amendment, allows funds to be used for training State educational agency personnel.

The Senate recedes.

98. The House bill requires that the State educational agency consult with a variety of individuals about the use of funds. The Senate amendment requires that the SEA appoint an advisory panel.

The Senate recedes.

99. The House bill, but not the Senate amendment, requires that federal funds not be used to supplant State funds.

The Senate recedes.

100. The House bill, but not the Senate amendment, requires the SEA to make annual reports to the Secretary, pursuant to regulations, on the uses of Title VII funds.

The Senate recedes with an amendment deleting everything after "report to the Secretary" and an amendment "describing their uses of such funds."

#### *National Clearinghouse for Bilingual Education*

101. The House bill, but not the Senate amendment, requires that the Clearinghouse be administered as an adjunct to ERIC.

The Senate recedes.

The Senate amendment, but not the House bill, includes among the Clearinghouse functions, a requirement to maintain in the comprehensive regional centers, listings by geographic area of speakers of languages other than English who might be used as resources for schools.

The House recedes.

#### *Instructional Materials*

102. The House bill, but not the Senate amendment, authorizes grants for instructional materials development in Native American, Native Hawaiian and other languages.

The Senate recedes with amendment adding "and the languages of the territories and freely associated nations".

#### *Evaluation Assistance Centers*

103. The House bill, but not the Senate amendment, provides for an extension of Evaluation Assistance Centers through 1996 and requires that the comprehensive assistance centers, under Title II, provide services comparable to those offered under EACs. The House bill authorizes the Centers to receive gifts.

The House recedes.

#### *Evaluations*

104. The Senate amendment and the House bill have identical requirements that recipients of grants under subpart I (bilingual grants) provide the Secretary biennial evaluations of their programs, except the House bill, but not the Senate amendment, refers to the Goals bill.

The Senate recedes.

#### *Part C (Subpart 3)—Bilingual Education Teacher Training*

105. The House bill names the part, "bilingual education teacher training." The Sen-

ate amendment names the part "professional development."

The House recedes.

#### *Purpose*

106. The House bill describes the purpose of this part as helping all educational personnel to more effectively serve language minority and limited-English-proficient students. The Senate amendment similarly describes its purpose as helping all educational personnel by improving the quality of instruction for such children. The Senate amendment also includes as its purpose dissemination of effective practices to other school personnel.

The Senate recedes with an amendment replacing this paragraph with: "The purpose of this part is to assist in preparing educators to improve the educational services to limited-English-proficient children and youth by supporting professional development programs and the dissemination of information on appropriate instructional practices for such children and youth."

#### *Training for all Teachers Program*

107. The House bill authorizes "training for all teachers programs", to help institutions of higher education, local educational agencies and state educational agencies improve their teacher preparation courses. It makes eligible those entities specified above, along with non-profit organizations in consortia with one of the above. Grants are for 5-years. Permissible activities are described and a priority for awards is established.

The Senate recedes with an amendment striking language minority; adding "preservice and inservice professional development" before "programs for teachers"; adding "in order to prepare such personnel to provide effective services to limited-English-proficient students" at the end of the sentence; replacing "the Secretary shall" with "the Secretary is authorized to"; striking "or organizations" in the authorization paragraph; and striking the "Priority" paragraph.

#### *Bilingual Education Teachers and Personnel Grants*

108. The House bill authorizes "bilingual education teachers and personnel grants" to provide degree programs for all levels of educational personnel. Higher Education Institutions in consortia with local or State educational agencies are eligible for 5-year grants.

The Senate recedes with the amendment on the bilingual education teacher and personnel grants.

109. The House bill authorizes a "bilingual education career ladder program" for non-certified educational personnel. Institutions of higher education, applying in consortia with local or State educational agencies, are eligible for the 5-year grants. Authorized activities are described and special consideration is to be given to applications emphasizing the completion of degrees or certificates, the development of two languages, the coordination with other named programs and the provision of student aid to participants.

The Senate recedes with an amendment to (b) striking "shall" and adding "is authorized to".

#### *Professional Development Grants*

110. The Senate amendment authorizes "professional development grants" to two types of entities: (1) to institutions of higher education to help them improve teacher preparation activities and to help them offer preservice and in-service professional development; (2) to state and local educational agencies for inservice programs for profes-

sional development. The grants may be used for the development of competence in a second language.

The House recedes with an amendment striking the Senate language for (a) and (b), adding to (c) "for the use in instructional programs" and moving (c) to section 7310.

111. The House bill, but not the Senate amendment, specifies a minimum number of fellowships that must be awarded in each year.

The Senate recedes.

112. The House bill, but not the Senate amendment, makes clear that working as a bilingual education teacher qualifies as a related activity.

The Senate recedes.

113. The House bill, but not the Senate amendment, allows the Secretary to give added weight to applicants which help participants find employment in bilingual education.

The Senate recedes.

#### *Applications*

114. The House bill requires that the application be sent to the Secretary and to the State educational agency or Board for higher education. The Senate amendment makes eligible institutions of higher education and local educational agencies, and requires that the application be sent through the State educational agency to the Secretary.

The House recedes with the amendment on the application provision.

115. The Senate amendment, but not the House bill, requires that the applicant describe its consultation and assessment activities.

The House recedes.

116. The Senate amendment, but not the House bill, requires that the applicants to provide a training practicum.

The House recedes.

117. The House bill provides for, but does not require, the State agency to comment on how the application furthers State reform efforts. The Senate amendment requires the State agency to comment on how the proposal is consistent with the State plan submitted under Title I.

The House recedes with an amendment on the application.

118. The House bill makes eligible institutions of higher education, alone or in consortia. The Senate amendment makes eligible institutions of higher education or local educational agencies.

The Senate recedes with an amendment to (b) striking "Eligible Entities" and adding "Special Consideration" in the heading; striking paragraph (1) and replacing it with paragraph (2). Paragraph (3) is renumbered Paragraph (2).

119. The House bill, but not the Senate amendment, requires outreach activities to certain institutions.

The Senate recedes.

120. The House bill, but not the Senate amendment, requires consideration of Hispanic serving institutions.

The Senate recedes.

121. The House bill, but not the Senate amendment, requires that applicants show integration with the State plan, if one exists.

The House recedes.

122. The House bill, but not the Senate amendment, requires preference be given to applicants showing institutional commitments in bilingual education and for programs which ensure participants (other than fellowship programs) become proficient in English and a second language.

The House recedes.

*Program Requirements*

123. The House bill, but not the Senate amendment, states funds under this Part shall be used to further state and local certification requirements and wherever possible awarding college credit.

The Senate recedes.

*Program Evaluations*

124. The Senate amendment and the House bill (see note #107) have identical requirements that recipients of grants provide the Secretary biennial evaluations of their programs. Technical difference regarding placement.

The Senate recedes.

*Part D (Part C)—Administration*

125. The House bill, but not the Senate amendment, establishes an Office of Bilingual Education and Minority Affairs within the Department of Education and describes functions to be carried out by that office.

The Senate recedes with placement to be determined by legislative counsel.

126. The House bill requires the Director to submit every two years a report to Congress, the President, the Governors and the clearinghouse which includes information on activities carried out under this Title, a synthesis of data reported by the State, the number of certified bilingual education personnel, and recommendations for improvements.

The Senate recedes with an amendment striking Congress, the President, and the Governors and adding the House Education and Labor Committee and the Senate Labor and Human Resources Committee and the Secretary.

The Senate amendment requires the Secretary to submit every three years a report to the Congress with information on grants made, the number of individuals benefiting from programs, evaluation of activities and the number of bilingual teachers needed, a synthesis of research.

The Senate recedes.

127. The House bill, but not the Senate amendment, requires a report on the education of students who reside in border states.

The House recedes.

128. The House bill, but not the Senate amendment, requires the Secretary of Education to collaborate with other agencies on how to better serve limited-English-proficient children.

The Senate recedes with an amendment deleting last sentence.

129. The House bill, but not the Senate amendment, requires data on limited-English-proficient children be a part of the Department's record-keeping.

The Senate recedes.

130. The House bill, but not the Senate amendment, requires sufficient staffing within OBEMLA.

The Senate recedes.

131. The House bill requires the Secretary to use qualified persons who are not employees of the Federal government for reviewing applications and that they serve for 3 years. The Senate amendment allows the Secretary to use peer review panels for making grants under Part A and limits the amount of funds to be used for this activity.

The House and Senate both recede and agree to place language in the Statement of Managers on application readers.

132. The Senate amendment, but not the House bill, requires the Secretary to take into account State educational agency recommendations for Part A grants.

The House recedes with an amendment attached on the following two pages.

133. The House bill, but not the Senate amendment requires that requests for proposals be published.

The Senate recedes.

*Release Time*

134. The House bill, but not the Senate amendment, requires Secretary to permit release time in all professional development programs.

The Senate recedes with an amendment replacing the sentence with "The Secretary shall allow professional development programs funded under this part to use such funds for professional release time to enable participation in programs assisted under this part."

*Educational Technology*

135. The House bill, but not the Senate amendment, allows funds to be used for the purchase of educational technology.

The Senate recedes.

*Notification*

136. The House bill, but not the Senate amendment, requires notification of grants.

The Senate recedes with an amendment to strike the reference to the technical assistance centers.

*Continued Eligibility*

137. The House bill, but not the Senate amendment, allows grant recipients to be eligible for additional grants.

The Senate recedes.

*Limitation of Authority*

138. The House bill, but not the Senate amendment, prevents the Secretary from imposing restrictions on availability of funds.

The House recedes.

139. The House bill, but not the Senate amendment, requires that recipients of grants awarded prior to enactment of this bill, be subject to the original conditions set forth.

The Senate recedes with an amendment placing a period after the second award and deleting the rest of the sentence.

*Foreign Language Assistance Program*

140. The Senate amendment, but not the House bill, authorizes \$35m for grants to State education agencies and local educational agencies to develop model programs for foreign language of which \$20 million is for elementary and secondary education.

The House recedes.

*Special Rule*

141. The Senate amendment, but not the House bill, prohibits grants made under title VII, prior to enactment of this Act, from being renewed for a fourth or fifth year.

The Senate recedes.

*Emergency Immigrant Education Program*

The House bill places this program in title VII; the Senate amendment places it in title IX.

The Senate recedes.

The Senate amendment, but not the House bill, establishes "findings."

The House recedes with an amendment adding "and" after (3) and changing (5) to (4).

*Purpose*

142. Identical provision, except the Senate amendment adds "definition" to the section heading.

The Senate recedes.

*State Allocations*

143. Identical provisions, except the Senate amendment includes the words, "in general", and includes subsection (e), "reservation of funds", in the amount excluded from state allocations.

The Senate recedes on (e). The title is left to legislative counsel.

144. The Senate amendment, but not the House bill, describes the manner in which the Secretary will award grants from the amount reserved in excess of a \$50m appropriation.

The Senate recedes.

*State Applications*

145. Identical provisions, except the House bill, but not the Senate amendment, requires that the SEA plan describe how it is consistent with any plan developed under the Goals 2000 or Title I.

The House recedes with an amendment striking "and how program designs are consistent with other education improvement plans" and adding "and will coordinate with other programs under this Act, Goals 2000: Educate America Act, and other acts as appropriate."

146. Identical provisions, except the House bill, but not the Senate amendment, specifies that payments "with the exception of payments reserved under section 7604(e)" will be distributed among the LEAs.

The Senate recedes.

147. The House bill, but not the Senate amendment, requires that any amount reserved by the SEA be awarded on the basis of merit.

The Senate recedes with an amendment adding "on a competitive basis" before "based on merit and need."

*Administrative Provisions*

148. The House bill stipulates the Secretary shall make payments to SEAs by no later than June 1st of each year; the Senate amendment stipulates SEAs shall by June 1st be informed of whether their application has been approved and if so, for how much.

The House recedes.

*Uses of Funds*

149. The Senate amendment, but not the House bill, includes under "uses of funds", basic instructional services.

The House recedes.

150. The Senate amendment, but not the House bill, states that nothing in this part shall restrict the children served, from being served in the same setting with other students with similar needs who are not immigrants.

The House recedes.

151. The Senate amendment, but not the House bill, states that "the State educational agency determines what information must be included in the biennial report."

The Senate recedes.

152. Identical provisions, but the House bill requires reports concerning programs under this "part", and the Senate amendment relates the requirement to Section 10701 (Part G) which provides the Secretary the authority to conduct evaluations of all programs.

The House recedes.

*Authorization of Appropriations*

153. The House bill authorizes an appropriation of \$75m in FY 1995, with such sums in the following four years; the Senate amendment authorizes \$150m in FY 1995, with such sums in the following four years.

The House recedes with an amendment to make the amount \$100 million.

170. The Senate amendment, but not the House bill, requires that no federal, state or local government entity receiving federal funds, shall be prohibited from communicating with the INS about the immigration status of any alien.

The Senate recedes.

## TITLE VIII—IMPACT AID

*Title Heading*

1. The House places Impact Aid in title VIII of ESEA. The Senate amendment authorizes the program in part A of title IX of ESEA.

The Senate recedes.

*Findings*

2. The House bill, but not the Senate amendment, contains findings.

The House recedes.

*Purpose*

3. The Senate amendment, but not the House bill, contains the phrase "because certain activities of the Federal Government place a financial burden on the local educational agencies serving areas where such activities are carried out".

The House recedes.

4. In paragraph (4), the Senate amendment, but not the House bill, refers to "or decreases".

The House recedes.

5. The House bill reads "Indian lands or who are defined in sections 2 and 3 of the Act of September 23, 1950 (Public Law 815, 81st Congress; 20 U.S.C. 631 et seq)". The Senate amendment reads "Federal lands".

The House recedes.

*Payments Relating to Federal Acquisition of Real Property*

6. In paragraph (1)(C), the Senate amendment, but not the House bill provides that the assessed value aggregating 10 percent or more of the value of all property in the LEA may be determined for the year preceding or the year succeeding acquisition of the property by the Federal Government.

The House recedes.

7. The House bill provides that, if the Secretary determines that an LEA is eligible for a payment, then that agency shall be "paid the amount described in subsection (b)". The Senate amendment provides that the LEA shall be "eligible to receive for such fiscal year such amount as, in the judgment of the Secretary, is equal to the continuing Federal responsibility for the additional burden with respect to current expenditures placed on such agency by such acquisition of property."

The Senate recedes with amendment changing "paid" to "eligible to receive".

8. The House bill requires the Secretary to reduce an LEA's payment by the amount which the LEA received "from activities conducted on such property during the previous fiscal year". The Senate amendment provides that the amount of the reduction shall be the amount received "during the previous fiscal year from activities conducted on such property."

House recedes.

9. The Senate amendment, but not the House bill, provides that, for the purposes of clause (i), the amount of revenue from activities on the Federal property, by which the Secretary reduces an LEA's payment under subsection (a), shall not include payments from the Secretary of Defense to support the operation of domestic dependent elementary or secondary schools, or the provision of a free public education to dependents of members of the Armed Forces residing on or near a military installation.

House recedes.

10. The House bill reads "In calculating the amount that a local educational agency shall be paid for a fiscal year,". The Senate amendment reads "In making a determination of the amount that would have been derived in such year under paragraph (1)(A),"

The Senate recedes with amendment changing "paid" to "eligible to receive".

11. In paragraph (1), the House bill provides that "The school district contains between 50,000 and 55,000 acres of land". The Senate amendment provides that "The school district contains between 20,000 and 60,000 acres of land".

The House recedes.

12. In paragraph (2), the House bill reads "a county chartered by State law in 1875". The Senate amendment reads "a country certified by state law in 1875 and 1890".

The Senate recedes.

13. The Senate amendment, but not the House bill, in subsection (f) includes a special rule making the Wheatland R-II School District eligible for a section 2 payment under current law and a section 9003 payment under the bill (i.e., 9002 under the Senate amendment or 9003 under the House bill).

The House recedes.

*Payments for Eligible Federally Connected Children*

14. In subparagraph (A), the Senate amendment, but not the House bill, includes students who resided on Federal property with a parent who is an accredited foreign official and military officer among the types of students that may be counted by LEAs for the purpose of determining the amount of payments.

The House recedes.

15. In subparagraph (D), the Senate amendment, but not the House bill, includes students who resided off Federal property with a parent who is an accredited foreign official and military officer among the types of students that may be counted by LEAs for the purpose of determining the amount of payments.

The House recedes.

16. In subparagraph (F), the Senate amendment, but not the House bill, includes students who resided on Federal property and are not described in subparagraph (A) or (B).

The House recedes with an amendment providing that (i) an LEA can receive a payment if these federally connected children (described in subparagraphs (F) and (G) equal or exceed 2,000 in number and that number of federally connected children comprises not less than 15% of the average daily attendance of the LEA.

17. In subparagraph (G), the Senate amendment, but not the House bill, includes students who, resided with parents employed on Federal property situated—(i) in whole or in part in the county in which the school district is located, or in whole or in part of the school district if the district is located in more than one county; or (ii) if not in such county or district, in whole or in part of the same State as the school district. (Note: "school district" and "district" should be "local educational agency" and "agency".)

The House recedes (see note above regarding subparagraph (F)).

18. The House bill, but not the Senate amendment, provides (in subparagraph (C)) that the Secretary calculate an LEA's basic support payment by multiplying the number of children described in subparagraphs (A) and (B) of paragraph (1) by a factor of .35 if the number of such children exceeds 6,500 and the average daily attendance of the LEA exceeds 100,000.

The Senate recedes.

19. The House bill provides that the Secretary multiply the number of children described in subparagraphs (D) and (E) of paragraph (1) by a factor of .20. The Senate amendment has a factor of .10.

The House recedes.

20. The Senate amendment, but not the House bill, provides that the Secretary multiply the number of children described in subparagraphs (F) and (G) of paragraph (1) by a factor of .05.

The House recedes.

21. The House bill uses the term "entitled". The Senate amendment uses the term "eligible".

The House recedes.

22. In subclause (II), the Senate amendment, but not the House bill refers to total current expenditures "in the second preceding fiscal year for which the determination is made".

The House recedes.

23. The Senate amendment, but not the House bill, directs the Secretary to compute the Learning Opportunity Threshold for the LEA serving students residing on Hascom Air Force Base (MA) by considering only the grade 9-12 portion of the LEA's total enrollment.

The House recedes.

24. The bill contain similar provisions relating to prior year data. The House bill reads "from the fiscal year preceding". The Senate amendment reads "from not later than the first fiscal year preceding".

The House recedes with an amendment providing that a new local educational agency, in its first year of operation, will use current year data and, in succeeding years, will use prior year data.

25. With regard to computing the amount of payments to LEAs for children with disabilities, the Senate amendment, but not the House bill, in subsection (d)(1)(A) provides that the computation include the children described in subparagraph (A)(ii) of subsection (a)(1).

The House recedes.

26. The House bill provides that the hold-harmless provisions of subsection (e) apply to the total amount that an LEA receives under subsections (b) and (f). The Senate amendment applies the hold-harmless to the amount received by a LEA under subsection (b) only.

The House recedes.

27. The House bill provides for the following hold-harmless percentages which are all tied to LEAs' section 3(a) payment in FY 1994: 80% in FY 1995; 60% in FY 1996; 40% in FY 1997. The Senate amendment provides for a 5 year rolling hold-harmless, for FY 1995, at 95% of the LEA's 1994 payments under all parts of section 3 of P.L. 81-874 and, for FY's 1996-1999, 95% of the LEA's prior year Basic Support Payment.

The House recedes with an amendment changing the hold harmless from 95 to 85 percent and providing that in fiscal year 1995 that the hold harmless applies only to "a" and "b" payments under section 3 of P.L. 81-874.

28. The Senate amendment, but not the House bill provides that the hold-harmless provisions in paragraph (1) shall apply to any one LEA for a maximum of two consecutive fiscal years, except that in the second such year, the LEA may not receive less than 85% of the amount that it received in the preceding fiscal year.

The House recedes with an amendment adding one year hold harmless provisions for (i) LEAs which, under current law, received a section 3(e) payment in fiscal year 1994 and (ii) LEAs that received section 3 funding in fiscal year 1994 but will not be eligible for a payment under section 8003 because they cannot meet the 2,000/15 percent threshold for payment on behalf of children of non-military parents who either live or work on Federal property (but not both).

29. The House bill provides that the "Secretary shall reduce payments to other LEAs determined under subsection (b)." The Senate amendment provides that the "If necessary . . . the Secretary first shall ratably reduce payments under subsection (b) to LEAs that do not receive a payment under this subsection."

The House recedes.

30. The Senate amendment, but not the House bill, provides that if additional funds become available for making payments under paragraph (1), payments that were reduced under clause (i) shall be increased on the same basis that they were reduced.

The House recedes.

31. In subparagraph (B), the Senate amendment, but not the House bill, provides: in clause (i) for further ratable reductions if the sums available for payments are insufficient after the application of subparagraph (A); and in clause (ii) that payments that were reduced under clause (i) shall be increased in the same manner should additional funds become available.

The House recedes.

32. Paragraph (2)(A)(i) of the House bill refers to "40 percent". Paragraph (2)(A)(i)(I) of the Senate amendment refers to "50 percent".

The Senate recedes with an amendment providing that the eligibility threshold shall be 40 percent if an LEA receives no funding on behalf of children described in section 8003(a)(1) (F) and (G), or 50 percent if an LEA receives funding on behalf of those federally connected children.

33. Subparagraph (C) of the House bill includes the phrase "or included Federal property under exclusive Federal jurisdiction." Subparagraph (A)(iii) of the Senate amendment does not.

The House recedes.

34. Subparagraph (B) of the Senate amendment, but not the House bill, contains provisions relating to LEAs which are found by the Secretary not to be comparable due to unusual geographical factors.

The House recedes.

35. Subparagraph (C) of the Senate amendment, but not the House bill, provides that a coterminous LEA shall be deemed to have met the tax effort requirements of eligibility under clause (i)(II) or (ii)(II) of subparagraph (A).

The House recedes.

36. Subclause (I) of the House bill requires the Secretary to use the average per pupil expenditure (APPE) of the State in which the LEA is located or of all the States. The Senate amendment requires the Secretary to use just the APPE of the State in which the LEA is located.

The Senate recedes.

37. In clause (ii), the House bill reads "the average amount of State aid per pupil received by the local educational agency". The Senate amendment reads "the total amount of general fund revenues received by the local educational agency from any general fund source per pupil, other than revenues provided under this subsection".

The Senate recedes. The managers urge the Secretary, when determining a local educational agency's payment calculation under subsection (f), to adjust the LEA's general fund revenue to account for such agency's capital outlay expenditures when there is no provision to provide for a dedicated revenue source for capital outlay and the agency's capital outlay expenditures are funded from general fund sources.

38. In clause (iii), the House bill reads "the sum of the total weighted units of the local

educational agency, as computed under subsection (a)(2)". The Senate amendment reads "the total number of students in average daily attendance of the local educational agency".

The House recedes with an amendment adding "as determined by the Secretary under subsection (a)(1) of section 8003".

39. In clause (iv), the House bill refers to "94 percent". The Senate amendment refers to "95 percent".

The House recedes.

40. The Senate amendment, but not the House bill, provides: in clause (i) that the product of the clause (i) computation is multiplied times the number of students served by the LEA and described in subparagraph (A) or (B) of subsection (a)(1); and in clause (ii) that the payment that an LEA described in clauses (ii) and (iii) of paragraph (2)(A) receives in a fiscal year is the amount described in clause (i) minus the amounts of its basic payment and its payment for children with disabilities.

The Senate recedes.

41. In paragraph (4)(A), the House bill reads "data from the fiscal year in which". The Senate amendment reads "student and revenue data from the fiscal year for which".

The House recedes.

42. In subparagraph (B), the House bill (in so many words) provides that the Secretary shall use the most recent data available which is adjusted to the current fiscal year. The Senate amendment contains a similar but more specific provision describing how such data is adjusted.

The Senate recedes.

43. Paragraph (5) of the Senate amendment, but not the House bill, provides that FY 1994 section 3(d)(2)(B) payments shall be made on the basis of 1994 (i.e., current year) data.

House recedes with an amendment moving this provision to Title V (Miscellaneous Provisions) of the bill.

44. The Senate amendment, but not the House bill in subsection (g) provides for additional payments for LEAs with high concentrations of children with high concentrations of children with disabilities.

The House recedes.

45. The Senate amendment, but not the House bill, in subsection (h) provides that an LEA that receives funds under this section may also receive funds under section 6 of current law or its successor authority.

The House recedes.

46. The Senate amendment, but not the House bill, in subsection (i) sets out a local maintenance of effort requirement of 90 percent.

The House recedes.

*Policies and Procedures Relating to Children Residing on Indian Lands*

47. The Senate amendment, but not the House bill, in subsection (e) provides for a process under which an Indian tribe may file a complaint with the Secretary regarding any action of an LEA related to the requirements of this section.

The House recedes.

*Application for Payments under Sections 8003 and 8004*

48. The Senate amendment, but not the House bill, in paragraph (4), provides that an SEA that had been accepted as an applicant for funds under section 3 of current law in fiscal year 1994 shall be permitted to continue as an applicant under the same conditions only if the SEA distributes all funds to the LEAs providing educational services.

House recedes.

*Payments for Sudden and Substantial Increases in Attendance of Military Dependents*

49. In paragraph (2), the House bill reads "between July 1 and September 30, inclusive, of the current school year". The Senate amendment reads "between May 15 and September 30, inclusive, of the fiscal year for which the determination is made".

The House recedes.

50. In subsection (d), the House bill directs the Secretary to pay each LEA with an approved application the same amount per child (not to exceed \$200) multiplied by the number of children determined for each such LEA. The Senate amendment directs the Secretary to pay each LEA with an approved application an amount equal to one-half the national average per-pupil expenditure multiplied by the number of children determined for each such LEA.

The House recedes.

51. The Senate amendment provides—(1) for prorated payments if the appropriation is insufficient to support full payments; and (2) that if additional funds become available, payments shall be increased in the same manner that they were prorated.

The House recedes.

52. I subsection (e)(1), the House bill requires the Secretary to "endeavor" to establish a notification process, whereas the Senate amendment requires the Secretary to simply establish a notification process (i.e., no "endeavor").

The House recedes.

*Construction*

53. The Senate amendment, but not the House, bill authorizes the Secretary to make grants for school construction to LEAs that receive a basic support payment under section 9003 and either (1) have a number of children residing on Indian lands that constitutes at least 50% of the LEAs student enrollment, (2) are heavily impacted LEAs, or (3) experience a sudden and substantial increase in military dependent children. The Senate amendment also provides for the amount of payments and use of funds.

The House recedes with an amendment adding an additional category of LEAs eligible for construction assistance.

54. The Senate amendment, but not the House bill, includes a special rule for the Winona R-III School District in Missouri which waives the P.L. 81-815 effort requirement.

The House recedes with an amendment moving this provision to Title V (Miscellaneous) of the bill.

*State Consideration of Payments in Providing State Aid*

55. The House bill prohibits States from considering Impact Aid payments in determining the eligibility of LEAs for State aid or in determining the amount of such aid (except for those States with approved equalization plans). The Senate amendment provides that no payments may be made under this title (should be "part") to any LEA in any State that takes Impact Aid into consideration in determining the eligibility of LEAs for State aid or in determining the amount of such aid to any LEA during that fiscal year or the preceding fiscal year.

The Senate recedes with an amendment substituting its provision, regarding State consideration of Impact Aid payments in providing State aid, for the House provision regarding reductions of State aid.

56. In subsection (b)(1), the House bill permits a State to reduce State aid to an LEA that receives a payment under section 8003 and 8004(b) (except the amount calculated in excess of the 1.0 student weighting) if the

State has in effect a program of State aid that equalizes expenditures among LEAs in the State. Paragraph (2) of the House bill provides that, in considering whether a State aid program is equalized, the Secretary shall disregard LEAs with per-pupil expenditures or revenues above the 95th percentile and below the 5th percentile. A program of State aid equalizes expenditures among LEAs if, in the second preceding fiscal year, the amount of disparity between the per-pupil expenditures or revenues of the remaining LEAs does not exceed 10 percent. Computations to determine the amount of disparity in a State aid program shall utilize any weighting mechanism that a State uses to take into account special cost differentials in allocating State aid. The Senate amendment takes a different approach by providing that a State, which has in effect a program of State aid designed to equalize expenditures among its LEAs, may take into account payments under this title, except for amounts calculated in excess of the 1.0 student weighting on behalf of children with disabilities, children on Indian lands, and heavily impacted LEAs. Additionally, the Senate amendment provides that "State aid" and "equalize expenditures" will be defined by the Secretary except that they shall not be construed in any manner adverse to a State aid program which takes into account the additional cost of providing education for particular groups or additional cost of providing education for particular groups or categories of pupils in meeting the special educational needs of such children.

The Senate recedes with an amendment—(i) clarifying that computations of per-pupil revenue or current expenditures may be based upon units of need as defined by the State; and (ii) providing that, for fiscal years 1995, 1996, and 1997, the disparity standard is 25 percent and, for fiscal years 1998 and 1999, the disparity standard is 20 percent.

57. Both the House bill and the Senate amendment have provisions relating to review of State aid programs. The House provisions are in subsection (c); the Senate provisions are in subsection (b)(4). The House bill requires 120-day written notice to the Secretary which includes the information the Secretary requires, including evidence that the State has notified each LEA of its intention to consider Impact aid payments in providing State aid. The Senate amendment has similar requirements except that the State must provide a 60-day notice to the Secretary (does not specify written notice).

The Senate recedes.

58. The House bill proves that: (i) before making a determination, the Secretary shall afford the State and local educational agencies in the State an opportunity to present their views; (ii) if the Secretary determines that a State aid program qualifies, shall certify program, notify the State, and afford an opportunity for a hearing to any adversely affected LEA; and (iii) if the Secretary determines that a State aid program does not qualify, the Secretary will notify the State and afford a hearing to the State and any adversely affected LEA. The Senate amendment provides: (i) in paragraph (4)(B) that prior to certifying any determination, the Secretary shall give the LEAs in the State an opportunity for a hearing at which such agencies may present their views; and (ii) in paragraph (4)(C) that the Secretary shall not finally deny certification to a State without first giving that State an opportunity for a hearing.

The Senate recedes.

59. The Senate amendment, but not the House bill, in subsection (b)(5) requires re-

roactive approval of a State aid program during the period 1989-92 if the State's program was approved in 1988 and in at least 1 year during the period 1989-92. This paragraph also provides that, beginning with FY 1993, such State shall not take payments under this title into consideration unless the Secretary has previously certified such State's program.

The Senate recedes.

60. The Senate amendment, but not the House bill, in subsection (b)(6), grandfathers in States with State aid programs approved by the Secretary on July 1, 1994 and which continue to meet the requirements of section 5(d)(2) of the current law.

The Senate recedes.

61. The House bill, in subsection (d), provides how, and in what amount, the State may take Impact Aid payments into consideration in reducing State aid. Additionally, the House bill provides that a State may not reduce State aid before its program of State aid has been certified by the Secretary. The Senate amendment, in subsection (b)(2) provides for similar exclusion of certain types and portions of Impact Aid payments.

The Senate recedes.

62. The House bill, but not the Senate amendment, in subsection (e), provides: (i) that an LEA, without exhausting administrative remedies, may bring an action in Federal district court for State violations; (ii) that a State shall not be immune under the 11th amendment from an action brought by an LEA; and (iii) that the court shall grant such relief as it deems appropriate, which may include attorney's fees to a prevailing LEA.

The Senate recedes with an amendment—(i) providing that neither the Secretary nor an aggrieved LEA may bring an action before 150 days following an adverse determination against a State for a violation of subsections (a) or (d)(2), or for failure to carry out an assurance under subsection (b)(3)(B); and (ii) striking attorney's fees.

#### Federal Administration

63. The Senate amendment, but not the House bill, provides: (i) in paragraph (1), that, for any fiscal year prior to FY 1995, Secretary shall treat as eligible under section 3 of current law any child that meets the requirements of paragraph (3) and shall forgive the obligation of any LEA to repay any amounts that LEA received on behalf of any such child who does not meet the requirements of section 3 (but does satisfy paragraph (3) of this subsection); (ii) in paragraph (2)(A), that the Secretary shall treat as eligible under subparagraph (A) of section 9003(a)(1) any child would be eligible except that the Federal property on which the child resides is not in the same State and who satisfies paragraph (3) of this subsection; (iii) in paragraph (2)(B), that the Secretary shall treat as eligible under paragraph (G) of section 9003(a)(1) any child would be eligible under such provision except that such child does not meet the requirements of clause (ii) of such subparagraph if such child satisfies paragraph (3) of this subsection; and (iv) in paragraph (3), that a child meets the requirements of this paragraph on the day preceding the date of enactment [of the Improving America's Schools Act of 1994?] if such child resides in an adjacent State or with a parent employed on Federal property in an adjacent State, the schools of the LEA the child attends are within a more reasonable commuting distance of the child's home than the schools of the LEA where the child resides, attending the schools of the LEA where the child resides will cause the child substantial

hardship, and the adjacent State where the child attends school provides funds for the education of such child on the same basis as all other public school children in the State.

The House recedes with an amendment providing that, in order to qualify under this provision, an LEA must have received a payment for fiscal year 1994 on behalf of such children.

#### Forgiveness of Overpayments

64. The Senate amendment, but not the House bill, authorizes the Secretary to forgive the obligation of an LEA to repay the amount of any overpayment under this title [part?] or under current law if the Secretary determines that the overpayment was the result of an error by (1) the Secretary, or (2) the LEA and repayment of the full amount will result in an undue hardship and serious harm to the LEA's educational program.

The House recedes.

#### Definitions

65. The Senate amendment, but not the House bill, includes a definition of "current expenditures".

The House recedes.

66. At the end of subparagraph (B), the House bill, but not the Senate amendment, includes the phrase "under contract with the Air Force at an airport owned by a State or political subdivision of a State".

The Senate recedes.

#### Authorization of Appropriations

67. The House bill authorizes appropriations for Basic Payments in subsection (b) (\$775.5 million in FY 1995) and for Payments for Heavily Impacted LEAs in subsection (d) (\$42 million in FY 1995). The Senate amendment authorizes appropriation for both of these payments in subsection (b)—\$775 million for FY 1995 of which 6 percent is set aside for Payments for Heavily Impacted LEAs.

The House recedes.

68. The Senate amendment, but not the House bill, authorizes \$25 million for FY 1995 and such sums for each of the succeeding 4 fiscal years to carry out section 9007 (construction).

The House recedes.

#### TITLE III—AMENDMENTS TO OTHER ACTS Amendments to Public Law 815

69. The House bill extends and amends the Impact Aid construction program (P.L. 81-815) for an additional five fiscal years. The Senate amendment repeals P.L. 81-815.

The House recedes.

#### TITLE IX—INDIAN EDUCATION, NATIVE HAWAIIAN EDUCATION, AND ALASKA NATIVE EDUCATION Part A—Indian Education

1. DRAFTING DIFFERENCES.—The House bill is drafted in prose; the Senate amendment is drafted as a series of cut and bites. Where there is a difference but it is not substantive, I have indicated with Technical Difference/Drafting. Also, the Senate uses headings throughout—this should be resolved consistently.

The Senate recedes to the House bill as the basic document, with an amendment retaining headings throughout.

#### Findings

2. The House bill uses the term "and others"; the Senate amendment uses the term "other entities and individuals". Also, the House bill uses the term "those standards"; the Senate bill uses the term "such standards".

Legislative Counsel.

3. The House bill uses the term "since enactment of the original Indian Education

Act in 1972"; the Senate amendment uses the term "since the date of enactment of the initial Indian Education Act in 1972". Also, the House bill uses the term "... Indian parents have become significantly more involved in ..."; the Senate amendment uses the term "the level of involvement of Indian parents ... has increased significantly ...".  
Legislative Counsel.

4. The House bill uses the term "numbers ... have"; the Senate amendment uses the term "number ... has". Also, the House uses the term "Indian persons"; the Senate uses the term "Indian individuals".  
Legislative Counsel.

5. The House bill uses the term "sufficient numbers"; the Senate amendment uses the term "a sufficient number".  
Legislative Counsel.

6. The House bill uses a semi-colon; the Senate amendment uses a comma.  
Legislative Counsel.

7. The House bill uses the phrase "from 1980 to 1990, the percentage of Indian persons living in poverty increased from ..."; the Senate amendment uses the phrase "during the period from 1980 to 1990, the percentage of Indian individuals living at or below the poverty level increased from ...".  
Legislative Counsel.

8. The Senate amendment, but not the House bill, uses the term "their".  
Legislative Counsel.

9. The House bill uses the term "of it"; the Senate uses the term "of the research". Other Minor technical differences.  
Legislative Counsel.

#### Purpose

10. The House bill uses the term "so that they"; the Senate amendment uses the term "so that such students".  
Legislative Counsel.

#### Part A—Formula Grants to Local Educational Agencies

#### Purpose

11. The House bill uses the term "State content and student performance standards"; the Senate amendment uses the term "State content standards and State student performance standards".  
The House recedes.

#### Grants to Local Educational Agencies

12. The House bill uses the term "is eligible"; the Senate uses the term "shall be eligible". Also, the Senate amendment, but not the House bill, adds the requirement that the children be "eligible under section 6106".  
The House recedes.

13. The House bill requires at least 20 students; the Senate amendment requires at least 10 students.

The House recedes with an amendment that this requirement not apply in Alaska, California, or Oklahoma or for local educational agencies located on, or in proximity to, a reservation.

14. The House bill uses the term "of the agency's total enrollment"; the Senate amendment uses the term "of the total number of individuals enrolled in the schools of such agency".  
The Legislative Counsel.

15. The Senate amendment, but not the House bill, provides a tribal by-pass mechanism where school districts do not apply for the funds.

The House recedes with an amendment which (1) changes the term "does not apply" to "does not establish a parent committee as required by this Act; and (2) deletes "has" in the term "has children" and substitutes in lieu thereof the term "represents at least 1/2 the eligible".

#### Amount of Grants

16. The Senate amendment, but not the House bill, adds the phrase, "Except as provided in subsection (b) and paragraph (2)." Also, the House bill uses the term "The Secretary is authorized to allocate ..."; the Senate amendment uses the term "The Secretary shall allocate".  
The House recedes.

17. The House bill uses the term "which has an approved application under this part"; the Senate amendment uses the term "with respect to which the Secretary has approved an application under this part".  
Legislative Counsel.

18. The House bill uses the term "described in section 6106"; the Senate amendment uses the term "who are eligible under section 6106 and served by such agency".  
Legislative Counsel.

19. The House bill stipulates that no grant shall be made if the amount for which a l.e.a. is eligible is less than \$4,000, unless to a consortium of eligible local educational agencies whose aggregate payment exceeds \$4,000 and where the Secretary determines the grant would carry out the purpose of this part; the Senate amendment sets a minimum grant level of \$4,000 for all eligible local educational agencies or Indian tribes (includes schools funded by the Bureau of Indian Affairs) (see Note 15).  
The House recedes with an amendment which sets the floor at \$3000, provided that the Secretary is authorized to increase the floor to \$4,000 if he/she determines it is necessary to run quality programs, and with an amendment maintaining the right to form consortia.

20. Technical Difference/Drafting—states method of arriving at product differently.  
Legislative Counsel.

21. The House uses the term "were in"; the Senate amendment uses the term "were included in".  
Legislative Counsel.

22. The House bill uses the term "grants determined"; the Senate amendment uses the term "grants awarded". Also, the Senate amendment, but not the House bill, includes the caveat "and subject to paragraph (2)".  
Legislative Counsel.

23. The House bill uses the term "that tribe"; the Senate amendment uses the term "such tribe." Also, the House bill uses the citation "25 U.S.C. 2501 et seq."; the Senate amendment uses the term "part B of title V of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988".  
Legislative Counsel.

24. The House uses the term "reduced as may be necessary"; the Senate amendment uses the term "subject to any reduction as may be necessary".  
Legislative Counsel.

25. The House bill cites "section 9205 of this Act"; the Senate amendment cites section 10205".  
Legislative Counsel.

#### Applications

26. The House uses the title "GENERAL"; the Senate uses the title "APPLICATION REQUIRED". Also, the House bill uses the term "Any"; the Senate amendment uses the term "Each".  
The House recedes.

27. The House bill reads "Each such application ... Indian children in the local educational agency, including their language and cultural needs ..."; the Senate amendment reads "Each application submitted under subsection (a) ... Indian children served by the local educational agency,

including the language and cultural needs of the children ...".

Legislative Counsel.  
28. The House bill, but not the Senate amendment, requires that the application be consistent with State GOALS 2000 plans or other plans developed under title I of this Act.

The House recedes with an amendment.  
29. The House bill, but not the Senate amendment, requires applications to include academic content and student performance goals for such children as benchmarks, basing same on GOALS 2000 or under title I of this Act.

The Senate recedes with an amendment.  
30. The House bill reads "demonstrates how funds under this part will be used for activities authorized by section 6105"; the Senate amendment reads "demonstrates how funds made available under this part will be used for activities described in section 6105."  
Legislative Counsel.

31. The House bill uses the term "describes the professional development to be provided ..."; the Senate amendment uses the term "describes the professional development opportunities that will be provided".  
The House recedes.

32. The House bill uses the term "involved in the project ... it out"; the Senate amendment uses the term "involved in the program assisted under this part ... such program".  
Legislative Counsel.

33. Technical difference/Drafting.  
Legislative Counsel.

34. The House bill uses the term "in its schools"; the Senate amendment uses the term "enrolled in the schools of the local educational agency".  
Legislative Counsel.

35. Technical Difference/Drafting.  
Legislative Counsel.

36. The Senate amendment, but not the House bill, adds the term "that are similar to the assessments described in subparagraph (A)".  
The House recedes.

37. The House bill uses the term "Each such application shall also include"; the Senate amendment uses the term "Each application submitted under subparagraph (a) shall include assurances that".  
Legislative Counsel [NOTE—the term "subparagraph" should probably be "subsection"].

38. The Senate amendment, but not the House bill, includes the term "made available under this part".  
The House recedes.

39. Technical Difference/Drafting.  
Legislative Counsel.

40. The House bill uses the phrase "determine the extent to which funds provided under this part have been effective in improving the educational achievement of Indian students in the local educational agency"; the Senate amendment uses the phrase "determine the extent to which funds provided to the local educational agency under this part are effective in improving the educational achievement of Indian students served by such agency".  
Legislative Counsel.

41. The House bill uses the term "has been based upon"; the Senate amendment uses the term "is based upon". Also, the House bill uses the term "for which"; the Senate amendment uses the term "for whom".  
Legislative Counsel.

42. Technical Difference/Drafting.  
Legislative Counsel.

43. The House bill uses the term "the local educational agency has developed the program"; the Senate amendment uses the term

"was developed by such agency". Also, the House bill uses the term "secondary school Indian students"; the Senate amendment uses the term "Indian students from secondary schools". Also, the House bill uses the term "where appropriate"; the Senate amendment uses the term "if appropriate". Also, the House bill uses the term "at which such persons have had a full . . ."; the Senate amendment uses the term "held by such agency to provide the individuals described in this subparagraph a full . . .".

Legislative Counsel.

44. Technical Difference/Drafting.

Legislative Counsel.

45. The House bill uses the term "parents"; the Senate bill uses the term "Indian parents". Also, the House bill uses the term "local educational agency's schools"; the Senate amendment uses the term "schools of the local educational agency".

The House recedes.

46. The House bill uses the term "where appropriate"; the Senate amendment uses the term "if appropriate". Also, the House bill uses the term "secondary school Indian students"; the Senate amendment uses the term "Indian students attending secondary school".

Legislative Counsel.

47. The House bill requires that at least 1/2 of the members of the Parents Committee be Indian [current law]; the Senate amendment increases this percentage to at least 3/4ths.

The Senate recedes with an amendment changing "at least half" to "more than one-half".

48. Technical Difference/Drafting.

Legislative Counsel.

49. The Senate amendment, but not the House bill, requires that the Parent Committee review the schoolwide program.

The House recedes with an amendment that the review be in a timely fashion.

50. The House bill uses the term "finds that such project will not diminish . . ."; the Senate amendment uses the term "determined that the program will not diminish . . .".

The House recedes.

51. Technical Difference/Drafting.

Legislative Counsel.

52. The House bill, but not the Senate amendment requires the State Educational Agency to review all local applications and requires the local educational agency to forward to the Secretary any comments received.

The House recedes.

#### Authorized Services and Activities

53. The House bill uses the term "use the grant funds for services and activities, consistent with the purpose of this part"; the Senate amendment uses the term "use the grant funds, in a manner consistent with the purpose specified in section 6101, for services and activities".

Legislative Counsel.

54. Technical Difference/Drafting.

Legislative Counsel.

55. The Senate amendment, but not the House bill, adds the term "of such agency".

Legislative Counsel.

56. Technical Difference/Drafting.

Legislative Counsel.

57. The House bill uses the term "which support"; the Senate amendment uses the term "that support". Also, the House bill uses the term "set out in the application, as required in section 6104"; the Senate amendment uses the term "described in the application submitted by the local educational agency".

Legislative Counsel.

58. The House bill uses the term "State content and student performance stand-

ards"; the Senate amendment uses the term "State content standards and State student performance standards".

The House recedes.

59. The House bill uses the term "meeting similar needs"; the Senate amendment uses the term "that meet the needs of Indian children and their families".

The House recedes.

60. The House bill uses the term "as those supported"; the Senate amendment uses the term "as the programs supported". Also, the House bill uses the term "tech-prep"; the Senate uses the term "technical preparation".

The Senate recedes.

61. The House bill uses the term "prevention of, and education about, substance abuse"; the Senate amendment uses the term "activities to educate individuals concerning substance abuse and to prevent substance abuse".

Legislative Counsel.

62. The House bill uses the term "such acquisition"; the Senate amendment uses the term "the acquisition of the equipment". Also, the House bill uses the term "of this part"; the Senate amendment uses the term "the purpose described in section 6101".

Legislative Counsel.

63. The House bill uses the term "Notwithstanding any other provision of this part . . ."; the Senate amendment uses the term "Notwithstanding any other provision of law . . .". Also, the House bill uses the term "funds it receives"; the Senate amendment uses the term "funds made available".

The House recedes.

64. The Senate amendment, but not the House bill, allows schoolwide projects only in schools with more than 1/2 Indian students. Also, the House bill requires that in any schoolwide project, the Secretary determine the school has made adequate provision for the participation of Indian Students and parents; the Senate amendment requires the approval of the Indian parent committee.

The Senate recedes to the House by dropping the 1/2 Indian student requirement, and the House recedes to the Senate in requiring the approval of the Indian parent committee.

65. The House bill title is STUDENT ELIGIBILITY FORMS; the Senate amendment title is STUDENT ELIGIBILITY AND FORMS.

The Senate recedes.

66. Technical Difference/Drafting.

Legislative Counsel.

67. The House bill uses the term "is providing"; the Senate amendment uses the term "provides."

Legislative Counsel.

68. The House bill uses the phrase "as an eligible Indian child"; the Senate amendment uses the phrase "as an Indian child eligible for assistance under this part and that otherwise meets the requirements of subsection (b)".

Legislative Counsel.

69. The House bill uses the term "The Secretary shall request on the form required under subsection (a) at least the following information . . ."; the Senate amendment uses the term "The form described in subsection (a) shall include . . .".

Legislative Counsel.

70. The House bill, but not the Senate amendment, uses the term "other organized group". Also, Technical Difference/Drafting.

The House recedes.

While the selection of the term "or other organized groups" is consistent with the rewrite of the definition used in this title (see section 6601(4)), the Conferees wish to make

clear that the deletion of the term, both here and in the definition, does not signal a change in policy. The Conferees have been assured that all students currently eligible for the program who have been included as a member of "an other organized group" may, with administrative clarification, continue to be served under the term "band". The change has been made at the request of the Administration, but only to clear up an administrative problem. The change should not result in any currently eligible student (or student who would be currently eligible if in school) from continuing to receive services.

71. See preceding note.

The House recedes.

72. See preceding note.

The House recedes.

73. The House bill uses the term "of any of the child's parents or grandparents"; the Senate amendment uses the term "of any parent or grandparent of the child".

Legislative Counsel.

74. See Note 70.

The House recedes.

75. The House bill uses the term "which the Secretary deems necessary"; the Senate amendment uses the term "that the Secretary considers necessary".

Legislative Counsel.

76. The House bill, but not the Senate amendment, contains a statement that nothing in these requirements shall affect the definition (see Note 80 for similar Senate provision).

The House recedes.

77. Technical Difference/Drafting.

Legislative Counsel.

78. See Note 70. Also, the House bill uses the term "Child's name"; the Senate amendment uses the term "name of the child". Also, the Senate amendment, but not the House bill, uses the term "with respect to which the child claims eligibility".

The House recedes to the question of "other organized group". The rest is for Legislative Counsel.

79. Technical Difference/Drafting.

Legislative Counsel.

80. The Senate amendment, but not the House bill, states that nothing in this subsection shall affect the definition (see Note 76 for similar House provision).

The House recedes.

81. Technical Difference/Drafting.

Legislative Counsel.

82. Technical Difference/Drafting.

Legislative Counsel.

83. See Note 70.

The House recedes.

84. The House bill uses the term "even if enrollment numbers of such tribe, band or groups are available"; the Senate amendment uses the term "notwithstanding the availability of an enrollment number for a member of such tribe, band or group".

The House recedes.

85. Technical Difference/Drafting.

Legislative Counsel.

86. The Senate amendment, but not the House bill, uses the term "Notwithstanding any other provision of law."

The Senate recedes.

87. The House bill uses the term "or be otherwise penalized"; the Senate amendment uses the term "be subject to any penalty". Also, the House bill uses the term "that relate"; the Senate amendment uses the term "that relates".

Legislative Counsel.

88. Technical Difference/Drafting.

Legislative Counsel.

89. Technical Difference/Drafting.

Legislative Counsel.

90. The House bill, but not the Senate amendment, uses the term "provided under this part". The Senate amendment, but not the House bill, uses the term "to the local educational agency."

The House recedes/the Senate recedes.

91. Technical Difference/Drafting. Legislative Counsel.

92. The Senate amendment, but not the House bill, includes for the use of other forms in lieu of those required under the Act, schools which receive funding under the Johnson-O'Malley program of the B.I.A.

The House recedes.

The Conferees have agreed to this provision as a paperwork reduction measure. Acceptance does not signal a desire or willingness to accept the incorporation of this program into the Johnson-O'Malley program or administration of this program in public schools by the Bureau of Indian Affairs.

93. Technical Difference/Drafting. Legislative Counsel.

94. Technical Difference/Drafting. Legislative Counsel.

95. The House bill uses the term "in which the grant will be paid"; the Senate amendment uses the term "for which the Secretary makes the payment".

Legislative Counsel.

96. Technical Difference/Drafting. Legislative Counsel.

97. The House bill uses the term "shall not pay any local . . ."; the Senate amendment uses the term "may not pay a local . . . amount of a grant award".

Legislative Counsel.

98. Technical Difference/Drafting. Legislative Counsel.

99. The House bill, but not the Senate amendment, includes State expenditures in outlining the combined effort to be taken into account.

The Senate recedes.

100. Technical Difference/Drafting. Legislative Counsel.

Part B—Special Programs and Projects to Improve Educational Opportunities for Indian Children

*Improvement of Educational Opportunities for Indian Children*

101. The House bill, but not the Senate amendment, uses the term "that are to". Also, the House bill contains an error—"text" should be "test".

The House recedes.

102. Technical Difference/Drafting. Legislative Counsel.

103. The Senate amendment, but not the House bill, uses the term "For the purpose of this section, the term 'eligible entity' means a . . ." and states the entities in the singular.

Legislative Counsel.

104. Technical Difference/Drafting. Legislative Counsel.

105. Technical Difference/Drafting. Legislative Counsel.

106. The House bill lists the core curriculum subjects; the Senate amendment references the core academic subjects in Goal three of the GOALS 2000 legislation.

Senate recedes with an amendment.

107. The House bill uses the term "which meet"; the Senate amendment uses the term "that address".

Legislative Counsel.

108. The House bill uses the term "high school"; the Senate amendment uses the term "secondary".

The House recedes.

109. The House bill uses the term "services to"; the Senate amendment uses the term "the provision of services to".

Legislative Counsel.

110. The House bill uses the term "high school"; the Senate amendment uses the term "secondary".

The House recedes.

111. The House bill uses the term "them"; the Senate amendment uses the term "such students. Also, see preceding note.

The House recedes.

112. Technical Difference/Drafting. Legislative Counsel.

113. Technical Difference/Drafting. Legislative Counsel.

114. The House bill uses the term "other services which meet the needs of this section"; the Senate amendment uses the term "other services that meet the purpose described in subsection (a)(1)".

Legislative Counsel.

115. Technical Difference/Drafting. Legislative Counsel.

116. Technical Difference/Drafting. Legislative Counsel.

117. Technical Difference/Drafting. Legislative Counsel.

118. Technical Difference/Drafting. Legislative Counsel.

119. The Senate amendment, but not the House bill, requires that the material disseminated be "exemplary".

The House recedes.

120. The House bill requires that the Secretary make a finding; the Senate amendment requires the Secretary to make a determination. Also, the House bill requires that the material disseminated has shown certain properties; the Senate amendment requires that the material disseminated have demonstrated the same properties.

The House recedes.

121. The House bill uses the term "section"; the Senate amendment uses the term "subsection". Also, the House uses the term "Each application shall contain . . ."; the Senate amendment uses the term "Each application submitted to the Secretary under subparagraph (A) shall contain . . .".

Legislative Counsel.

122. Technical Difference/Drafting. Legislative Counsel.

123. Technical Difference/Drafting. Legislative Counsel.

124. The Senate amendment, but not the House bill, adds the term "to qualified Indian individuals to enable such individuals to become . . .".

The House recedes.

125. The House bill uses the term "of those presently serving in these capacities"; the Senate amendment uses the term "of qualified Indian individuals who serve in the capacities described in paragraph (2)".

Legislative Counsel.

126. Technical Difference/Drafting. Legislative Counsel.

127. Technical Difference/Drafting. Legislative Counsel.

128. The Senate amendment, but not the House bill, authorizes the Secretary to make grants under this provision to eligible entities.

The House recedes.

129. Technical Difference/Drafting. Legislative Counsel.

130. The House bill uses the term "may include, but are not limited to"; the Senate amendment uses the term "may include".

The Senate recedes.

131. Technical Difference/Drafting. Legislative Counsel.

132. Technical Difference/Drafting. Legislative Counsel.

133. The Senate amendment, but not the House bill, includes a requirement that entities desiring a grant under this provision provide an application.

The House recedes.

134. Technical Difference/Drafting. Legislative Counsel.

135. Technical Difference/Drafting. Legislative Counsel.

136. Technical Difference/Drafting. Legislative Counsel.

137. Technical Difference/Drafting. Legislative Counsel.

138. The House bill uses the term "mechanism"; the Senate amendment uses the term "a reporting procedure". Also, the House bill requires reporting to begin within 12 months; the Senate bill requires reporting periodically. Also, some Technical Differences/Drafting.

The House recedes.

*Fellowships for Indian Students*

139. The House bill, but not the Senate amendment, stipulates that "During each fiscal year ending prior to October 1, 1999", the Secretary is authorized to make fellowships.

The House recedes.

140. Technical Difference/Drafting. Legislative Counsel.

141. Technical Difference/Drafting. Legislative Counsel.

142. The House bill uses the term "to persons"; the Senate amendment uses the term "to Indian students".

The House recedes.

143. The House bill uses the term "their dependents"; the Senate amendment uses the term "dependents of such students". Also, Technical Difference/Drafting.

The House recedes.

144. The House bill, but not the Senate amendment, stipulates that payments to an institution are in lieu of tuition charged to the student. Also, Technical Difference/Drafting.

The Senate recedes.

145. Technical Difference/Drafting. Legislative Counsel.

146. The House bill uses the term "By no later than the date that is 45 days before . . ."; the Senate amendment uses the term "Not later than 45 days before . . .". Also, Technical Difference/Drafting.

Legislative Counsel.

147. The House bill stipulates that not more than 10% of the fellowships can be awarded on a priority basis for persons receiving training; the Senate amendment stipulates that not more than 10% of the fellowships are provided to Indian students on a priority basis for the same training.

The Senate recedes.

148. The House bill uses the term "related work"; the Senate amendment stipulates that the work performed must be "related to the training" received. Also, Technical Differences/Drafting.

The House recedes.

149. See Note 138.

The House recedes.

150. The Senate amendment, but not the House bill, stipulates that the Secretary may administer this program through contract or grant or cooperative agreement with an outside, Indian entity with demonstrated capacity.

The House recedes.

*Gifted and Talented*

151. Technical Difference/Drafting. Legislative Counsel.

152. The Senate amendment, but not the House bill, stipulates that the two grants are also for demonstration activities.

The House recedes.

153. Technical Difference/Drafting. Legislative Counsel.

154. The House bill uses the term "are fully accredited"; the Senate amendment uses the term "are accredited by a State or regional accrediting agency or organization".

The House recedes.

155. Technical Difference/Drafting. Legislative Counsel.

156. Technical Difference/Drafting. Legislative Counsel.

157. Technical Difference/Drafting. Legislative Counsel.

158. Technical Difference/Drafting. Legislative Counsel.

159. The House bill uses the term "which hold reasonable promise"; the Senate amendment uses the term "that the Secretary determines holds a reasonable promise . . .".

Legislative Counsel.

160. The House bill uses the term "including, but not limited to"; the Senate amendment uses the term "including".

The Senate recedes.

161. The House bill cites subsection (c); the Senate amendment cites subsection (d).

Legislative Counsel.

162. Technical Difference/Drafting. Legislative Counsel.

163. Technical Difference/Drafting. Legislative Counsel.

164. The House bill uses the term "their families"; the Senate amendment uses the term "families of such children".

The House recedes.

165. The Senate amendment, but not the House bill, requires that each entity desiring a grant under this provision submit an application.

The House recedes.

166. The House uses the term "shall provide"; the Senate amendment uses the term "shall award".

Legislative Counsel.

167. Technical Difference/Drafting. Legislative Counsel.

168. The House bill, but not the Senate amendment, has the word "regarding" after development.

The House recedes.

169. Technical Difference/Drafting. Legislative Counsel.

170. Technical Difference/Drafting. Legislative Counsel.

171. Technical Difference/Drafting. Legislative Counsel.

172. Technical Difference/Drafting. Legislative Counsel.

173. The House bill, but not the Senate amendment, stipulates that grants may be for one or more of the enumerated activities.

The Senate recedes.

174. Technical Difference/Drafting. Legislative Counsel.

175. The House bill, but not the Senate amendment, requires that the definition of gifted and talented to be used in this and another provision be expeditiously developed.

The House recedes.

176. The House uses the term "Subject to the availability of appropriated funds . . ."; the Senate amendment uses the term "Subject to the availability of appropriations".

Legislative Counsel.

177. Technical Difference/Drafting. Legislative Counsel.

178. Technical Difference/Drafting. Legislative Counsel.

179. Technical Difference/Drafting. Legislative Counsel.

180. The House bill, but not the Senate amendment, requires the Secretary of Education to report to the Secretary of the Interior and Congress on activities under this provision.

The Senate recedes.

181. Technical Difference/Drafting. Legislative Counsel.

182. Technical Difference/Drafting. Legislative Counsel.

183. Technical Difference/Drafting. Legislative Counsel.

184. The House bill uses the term "persons to whom a grant is made, or with whom a contract is entered into"; the Senate amendment uses the term "each recipient of a grant or contract under this section".

Legislative Counsel.

185. Technical Difference/Drafting. Legislative Counsel.

186. The Senate amendment, but not the House bill, uses the term "of the United States".

The Senate recedes.

#### *Grants for Evaluation and Technical Assistance*

187. The Senate amendment, but not the House bill, authorizes regional technical assistance centers. \$8,000,000 are authorized for each fiscal year 1995 through 1999 for these centers.

#### *Grants to Tribes for Education Administrative Planning and Development*

188. The Senate amendment, but not the House bill, includes an authority for grants for tribes for education administrative planning and development. \$3,000,000 is authorized in each fiscal year 1995 through 1999 for these grants.

The House recedes with an amendment that the same tribe may not also receive a grant under the Department of Interior authority for Tribal Departments of Education.

The Conferees wish to point out the provision in this section which precludes a tribe currently receiving funds under the Bureau of Indian Affairs program for Tribal Divisions of Education from receiving funds under this section.

#### *Part C—Special Education Programs Relating to Adult Education for Indians Improvement of Educational Opportunities for Adult Indians*

189. Technical Difference/Drafting. Legislative Counsel.

190. The House bill uses the term "the provision of basic literacy opportunities"; the Senate amendment uses the term "basic literacy opportunities".

Legislative Counsel.

191. The House bill uses the term "high school equivalency certificate"; the Senate amendment uses the term "secondary school diploma, or its recognized equivalent".

The House recedes.

192. See preceding Note.

The House recedes.

193. See preceding Note.

The House recedes.

194. Technical Difference/Drafting. Legislative Counsel.

195. Technical Difference/Drafting. Legislative Counsel.

196. The House uses the term "evaluations thereof"; the Senate amendment uses the term "evaluations of the programs, services and resources . . .".

The House recedes.

197. Technical Difference/Drafting. Legislative Counsel.

198. The Senate amendment, but not the House bill, adds the term "and the objectives to be achieved".

The House recedes.

199. Technical Difference/Drafting. Legislative Counsel.

200. Technical Difference/Drafting. Legislative Counsel.

201. The Senate amendment, but not the House bill, uses the term "appropriate tribal communities".

The House recedes.

202. The House bill uses the term "of the project"; the Senate amendment uses the term "of the activities to be assisted".

Legislative Counsel.

203. Technical Difference/Drafting. Legislative Counsel.

204. The House BILL title is PART D—NATIONAL ACTIVITIES AND GRANTS TO STATES; the Senate amendment title is PART D—NATIONAL RESEARCH ACTIVITIES.

The House recedes.

#### *National Activities*

205. Technical Difference/Drafting. Legislative Counsel.

206. The House bill uses the term "Act"; the Senate amendment uses the term "title".

Legislative Counsel.

207. The House bill uses the term "Office of Educational Research . . ."; the Senate amendment uses the term "the Assistant Secretary for Educational Research . . .".

The Senate recedes.

208. Technical Difference/Drafting. Legislative Counsel.

209. The House bill, but not the Senate amendment, requires each local educational agency to submit their application under this title to the appropriate State Educational Agency for comment, allows the SEA to send such comments to the Secretary, with the Secretary taking such comments as are transmitted into account in reviewing the application.

The Senate recedes with an amendment which; (1) stipulates this requirement applies to all entities except B.I.A. funded schools; (2) stipulates that if it wishes to comment on any applications, the S.E.A. must comment on all applications and do so within 45 days of their receipt; (3) stipulates the S.E.A. will provide each entity with a copy of its comments and that each entity shall have an opportunity to respond; and (4) stipulates that the Secretary may waive this provision if he/she determines it impedes the application process.

#### *Part E—Federal Administration*

210. The House bill, but not the Senate amendment, sets forth the Office of Indian Education, and sets requirements for such Office and its Director.

The Senate recedes with an amendment deleting (b)(3).

#### *National Advisory Council on Indian Education*

211. The House uses the term "There shall be a . . ."; the Senate amendment uses the term "There is established . . .".

Legislative Counsel.

212. The House bill uses the term "areas of the country"; the Senate amendment uses the term "areas of the United States".

The House recedes.

213. Technical Differences/Drafting. Legislative Counsel.

214. The House uses the term "for which the Secretary is responsible"; the Senate amendment uses the term "with respect to which the Secretary has jurisdiction".

The House recedes.

215. Technical Difference/Drafting. Legislative Counsel.

216. Technical Difference/Drafting. Legislative Counsel.

217. Technical Difference/Drafting. Legislative Counsel.

#### *Peer Review*

218. Technical Difference/Drafting. Legislative Counsel.

#### *Preference for Indian Applicants*

219. The House uses the term "parts B and C of this title"; the Senate amendment uses the term "part B, C, or D".

The House recedes.  
220. Technical Difference/Drafting.  
Legislative Counsel.

#### Minimum Grant Criteria

221. Technical Difference/Drafting.  
Legislative Counsel.  
222. Technical Difference/Drafting.  
Legislative Counsel.

#### Part F—Definitions; Authorizations of Appropriations

##### Definitions

223. Technical Difference/Drafting.  
Legislative Counsel.  
224. Technical Difference/Drafting.  
Legislative Counsel.  
225. Technical Difference/Drafting.  
Legislative Counsel.  
226. The Senate amendment, but not the House bill, includes in the definition any member of an organized Indian group that received a grant under this title prior to the enactment of this Act.

The House recedes. The Managers wish to make it clear that by deleting the term "other organized group" from the definition above and by including this provision, they do not intend to make a substantive change to the pool of student eligible to benefit from this program. The Managers are simply agreeing to an Administration recommendation that such a change would simplify administering the program, without cutting any students or groups out of participation. Groups which have been covered under the umbrella of "other organized group" in the past would still qualify as a "band".

##### Authorization of Appropriations

227. Technical Differences/Drafting.  
Legislative Counsel.  
228. The House bill authorizes \$20,925,000 for FY 1995 for parts B, C, and D. The Senate amendment authorizes \$31,925,000 for FY 1995 for the same provisions.

The House recedes with an amendment cutting the Fiscal Year 1995 amount to \$26 Million.

229. Technical Difference/Drafting.  
Legislative Counsel.  
230. Technical Difference/Drafting.  
Legislative Counsel.

##### Native Hawaiian Education

###### Findings

1. The House bill and Senate amendment have similar, but not identical, findings concerning the history of Hawaii and its move towards sovereignty.

2. Language in the House bill and Senate amendment is similar, but not identical, concerning the special relationship which exists between the United States and the Native Hawaiian people.

3. The Senate amendment, but not the House bill, notes the decline in the Native Hawaiian population from 1778 to 1921.

4. Technical difference.  
Legislative Counsel.

5. The House bill, but not the Senate amendment, refers to the Act of June 20, 1938, where the U.S. Congress acknowledged the unique status of the Hawaiian people.

6. The Senate amendment, but not the House bill, refers to the U.S. establishing educational programs to benefit Native Hawaiians.

7. The House bill refers to "the Native American Programs Act of 1992, as amended" and the "National Historic Act Amendments

of 1992". The Senate amendment refers to "the National Museum of the American Indian Act", "National Historic Preservation Act", and the "Native American Languages Act".

The House recedes with an amendment to combine the House and Senate provisions.

7. The House bill lists the special provisions the U.S. Congress has passed recognizing the trust relationship between the U.S. and the Native Hawaiian people. The Senate amendment simply states "numerous special provisions of law for the benefit of Native Hawaiians in the areas of health, education, labor, and housing."

8. The House bill, but not the Senate amendment, recognizes that a lower educational attainment among Native Hawaiians has been related to lower socioeconomic outcomes.

9. The House bill, but not the Senate amendment, indicates that Native Hawaiian students are disproportionately underrepresented in Institutions of Higher Education.

10. The House bill, but not the Senate amendment, states that Native Hawaiians are underrepresented in traditional white collar and health care professions, while being overrepresented in service occupations.

11. The Senate amendment, but not the House bill, refers to the 1988 enactment of title IV of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988.

12. Technical difference.  
Legislative Counsel.

13. The House bill and the Senate amendment, in similar, yet not identical, language refer to Native Hawaiian children's educational risk factors.

14. The House bill, but not the Senate amendment, states "special efforts in education recognizing the unique cultural and historical circumstances of Native Hawaiians are required."

15. The Senate amendment, but not the House bill, refers to the underrepresentation of Native Hawaiians in institutions of higher education and among adults who have completed four or more years of college.

16. The Senate amendment, but not the House bill, refers to high retention and absenteeism rates among Native Hawaiian students.

17. The Senate amendment, but not the House bill, states that Native Hawaiian students are the highest drug and alcohol users.

The House recedes with amendment, adding "in the State of Hawaii" after "alcohol" in paragraph (ii).

18. The Senate amendment, but not the House bill, states that Native Hawaiian children continue to be disproportionately victimized by child abuse and neglect.

19. The Senate amendment, but not the House bill, refers to the 23% of the students served by the State of Hawaii's Department of Education and their residence in rural, isolated areas.

20. The Senate amendment, but not the House bill, refers to contradictions between findings listed in paragraphs (1) through (15)

and the high rate of literacy and integration of traditional culture and Western education achieved by Native Hawaiians through a Hawaiian language-based public school system.

21. The Senate amendment, but not the House bill, refers to the "Native Hawaiian Educational Assessment Project" released in 1983 by the Office of Education to Congress and its findings.

21.(a) The Senate amendment, but not the House bill, notes that the Kamehameha Schools Bishop Estate released a ten-year update of the Native Hawaiian Educational Assessment Project.

22. The Senate amendment, but not the House bill, mentions the banning of Hawaiian medium schools.

23. The Senate amendment, but not the House bill, refers to the Native Hawaiians' determination to "preserve, develop, and transmit to future generations their ancestral territory".

24. The Senate amendment, but not the House bill, to the distinct land rights of the Native Hawaiian people.

25. The Senate amendment, but not the House bill, mentions the distinct land rights of Native Hawaiians and their unique religious customs and beliefs.

26. The Senate amendment, but not the House bill, recognizes the traditional language of the Native Hawaiian people as an official language of the State of Hawaii.

*Purpose*

27. The House bill states educational programs are to "assist" Native Hawaiians in "reaching the National Educational Goals". The Senate amendment simply states educational programs are to "benefit" Native Hawaiians.

28. The Senate amendment, but not the House bill, refers to the establishment of a Native Hawaiian Education Council and five island councils.

29. The House bill states the purpose of this part includes the "encouragement of maximum participation of Native Hawaiians in planning and management of Native Hawaiian Education Programs." The Senate amendment refers to this concept in the findings.

*Establishment*

30. Both the House bill and the Senate amendment provide for a Native Hawaiian Education Council. The Senate amendment, but not the House bill, includes the provision for island councils.

*Composition*

31. The Senate amendment, but not the House bill, states the Education Council shall consist of not more than 25 members.

32. The House bill, but not the Senate amendment, states the composition of the council shall consist of, "but not be limited to", "representatives of each of the programs which receive Federal funding under this part"; "a representative from the Office of the Governor"; "a representative from the Office of Hawaiian Affairs"; "representatives of other Native Hawaiian Educational organizations and Native Hawaiian organizations

which receive Federal or state education funds"; and "parent, student, educator, and community organizations".

The House recedes.

33. The Senate amendment, but not the House bill, includes in its member list, "each recipient of funds from the Secretary under this part"; a representative from the Office of Hawaiian Affairs, Department of Education in Hawaii, and specifically mentioned educational organizations.

The House recedes.

34. The Senate amendment, but not the House bill, states a representative will serve on the council from "each Native Hawaiian education island council established under subsection (f)".

The House recedes.

#### Conditions and Terms

35. The House bill indicates that at least half of the members shall be Native Hawaiians. The Senate amendment states that at least three-fourths of the members shall be Native Hawaiians.

The House recedes.

36. The House bill states that members of the Education Council will serve for five year terms. The Senate amendment states members will be appointed for three-year terms.

The House recedes.

#### Duties and Responsibilities

37. The House bill and the Senate amendment state the Education Council will provide information to Congress. The Senate amendment, not the House bill, specifically states particular entities to which the reports will be delivered.

The House recedes.

37(a). The House bill, but not the Senate amendment, states that the Secretary shall, whenever practicable, consult with the Council before taking any significant action related to the education of Native Hawaiians.

The House recedes.

38. The Senate amendment, but not the House bill, refers to island councils and the support the Education Council will provide these councils.

The House recedes.

#### Administrative Provisions

39. The House bill, but not the Senate amendment, makes a statement that the Council will meet at the call of the Chair, or upon the request of the majority of the Council.

The Senate recedes.

40. The Senate amendment, but not the House bill, outlines the purpose of the administrative grant for the Education Council.

The House recedes.

#### Compensation

41. The House bill, but not the Senate amendment, requires that compensation for service will not be given to any member of the Native Hawaiian Council.

The Senate recedes.

#### Report to Congress

42. The House bill, but not the Senate amendment mandates a report to Congress not later than 4 years after the date of enactment of the Improving America's Schools Act.

The Senate recedes.

#### Establishment of Island Councils

43. The Senate amendment, but not the House bill, introduces island councils and their composition. Specific administrative provisions, compensation, report requirements, and authorization of appropriations are described.

The House recedes.

#### Application Required

44. The Senate amendment, but not the House bill, articulates the application required for a grant that is to be made to the Secretary in order to carry out the provisions of this part.

The House recedes.

#### Native Hawaiian Language Immersion Authority

45. The House bill, but not the Senate amendment details a state-wide effort to revitalize the Native Hawaiian language. Administrative costs are set at no more than 7 percent of the funds appropriated. Authorized appropriations are to be \$1,500,000 for fiscal year 1995 and such sums as may be necessary for fiscal years 1996 through 1999.

The House recedes.

#### Native Hawaiian Family-Based Education Centers

46. The Senate amendment, but not the House bill, states educational entities with "experience" in developing or operating Native Hawaiian programs. The House bill does not use "experience".

The House recedes.

47. The House bill states that a minimum of eleven Family-Based Education Centers throughout the Hawaiian Islands be developed. The Senate amendment refers to no such minimum.

The House recedes.

48. The Senate amendment, but not the House bill, articulates that the programs of such centers "may be conducted in either the Hawaiian language, the English language, or a combination thereof".

The House recedes.

49. Technical difference.  
Legislative Counsel.

#### Native Hawaiian Higher Education Demonstration Program

50. The House bill, but not the Senate amendment, states that the Secretary shall make grants to the Kamehameha Schools/Bernice Pauahi Bishop Estate. The Senate amendment generalizes, stating grants will be given to Native Hawaiian educational organizations.

The House recedes.

#### Mandatory Activities

51. The Senate amendment, but not the House bill states mandatory activities include full or partial fellowship support for Native Hawaiian students enrolled in higher institutions of education. The House bill simply says "may include".

The Senate recedes.

52. The Senate amendment, but not the House bill, includes "fellowship" in its conditions of recipients.

The Senate recedes.

53. The Senate amendment, but not the House bill, includes a section titled "Permitted Activities" listing those which the House bill mentions under no such subsection.

The Senate recedes.

54. Technical differences.

Legislative Counsel.

55. The House bill, but not the Senate amendment, has a section titled "Grants Authorized".

The House recedes.

56. The Senate amendment, but not the House bill, specifies "fellowship" recipients.

Legislative Counsel.

57. The Senate amendment, but not the House bill, refers to the completion of a baccalaureate program.

The House recedes.

58. The House bill, but not the Senate amendment, includes "within the State of Hawaii" after "Native Hawaiian community".

The House recedes.

#### Special Rule

59. The House bill, but not the Senate amendment, includes a special rule that no policy be implemented to prevent a Native Hawaiian student enrolled at a higher education institution outside of the State of Hawaii from receiving a fellowship.

The Senate recedes.

#### Authorization of Appropriations

60. The House bill, but not the Senate amendment, authorizes \$1,500,000 for fiscal year 1995 and such sums may be necessary for fiscal year 1996 through 1999 for funding fellowship assistance demonstration project provided under subsection (b).

The House recedes.

#### Native Hawaiian Gifted and Talented Program

61. The House bill, but not the Senate amendment, states there will be an establishment of a Native Hawaiian Gifted and Talented Center at the University of Hawaii at Hilo. The Senate amendment does not specify a program at the University.

The House recedes. (on title as well)

62. The House bill, but not the Senate amendment, specifies demonstration projects will be designed to address gifted and talented students. The Senate amendment makes no reference to demonstration projects.

The House recedes.

63. The House bill, but not the Senate amendment, details the terms of the grant or contract.

The House recedes.

64. The House bill, but not the Senate amendment, states that "such grant or contract shall be subject to the availability of appropriated funds and, contingent on satisfactory performance by the grantee".

The House recedes.

#### Uses of Funds

65. The Senate amendment, but not the House bill, specifies "Native Hawaiian" gifted and talented students.

The House recedes.

66. The House bill, but not the Senate amendment, incorporates public television in meeting educational needs of gifted and talented children.

The House recedes.

67. The Senate amendment, but not the House bill, refers to coordination with "other Native American gifted and talented programs."

The House recedes.

#### Information Provision

68. The House bill, but not the Senate amendment, states the Secretary will establish a national network of Native Hawaiian and American Indian Gifted and Talented Centers and impart any information to the educational community.

The Senate recedes with an amendment striking "shall" and inserting "is authorized to".

69. The House bill provides \$2,000,000 for fiscal year 1995 and such necessary sums for fiscal years 1996 through 1999. The Senate amendment provides \$1,500,000 for fiscal year 1995, and necessary sums for each of the succeeding 4 fiscal years.

The House recedes.

#### Special Education Authority

70. The House bill, but not the Senate amendment, refers to Pihana Na Mamo,

while the Senate amendment mentions general educational organizations.

The House recedes.

71. The House bill uses "children"; the Senate amendment uses "students".

The House recedes.

72. The Senate amendment, but not the House bill, refers to emotional impairments.

The House recedes with amendment, striking "learning" and "mental or physical disabilities, emotional impairments".

73. The House bill, but not the Senate amendment, refers to children at the elementary school level.

The House recedes.

73.(a) The Senate amendment, but not the House bill, refers to part B of the Education of Individuals with Disabilities Education Act.

The House recedes.

74. The Senate amendment, but not the House bill, refers to "the conduct of educational, psychosocial, and developmental activities" of Native Hawaiian students.

The House recedes.

75. The Senate amendment, but not the House bill, refers to "appropriate research, evaluation, and related activities".

The House recedes.

76. The House bill, but not the Senate amendment, refers to the Secretary who may not make a grant or provide funds pursuant to a contract under this subsection.

The House recedes.

77. The House bill, but not the Senate amendment, discusses non-Federal contributions.

The House recedes.

#### *Application Required*

78. The House bill, but not the Senate amendment, refers to an "application required" to be submitted to the Secretary.

The Senate recedes.

#### *Definitions*

79. The House bill and the Senate amendment have similar, but not identical, language defining the term "Native Hawaiian". The House bill states specifically "a citizen of the United States", and a "resident of the State of Hawaii".

The Senate recedes.

80. The House bill states "birth records of the State of Hawaii", where the Senate amendment merely states "certified birth records".

The House recedes.

The conferees intend that genealogical records should be defined to include birth, marriage and death records.

81. The House bill, but not the Senate amendment, mentions the term "Secretary" as meaning the Secretary of Education.

The House recedes.

82. The House bill, but not the Senate amendment, refers to "demonstrated expertise in research and program development".

The Senate recedes.

83. The House bill, but not the Senate amendment, includes the definition of a "Native Hawaiian Organization".

The Senate recedes.

84. The House bill, but not the Senate amendment, includes the term "elementary school" as meaning the same as indicated section 9101 of the same act.

The House recedes.

85. The Senate amendment, but not the House bill, refers to the definition of "Native Hawaiian language" and the term "Office of Hawaiian Affairs".

The House recedes.

86. The Senate amendment, but not the House bill, refers to the definition of "Native Hawaiian community-based organization".

The House recedes.

87. The House bill, but not the Senate amendment, includes the term "local educational agency".

The House recedes.

88. The House bill, but not the Senate amendment, includes the term "secondary school".

The House recedes.

89. The Senate amendment, but not the House bill, includes Native Hawaiian Curriculum Development, Teacher Training and Recruitment Program. Specifics mentioned are curricular development, preteacher training, inservice teacher training, and teacher recruitment. Administrative costs are to be not more than 7 percent of the funds appropriated for fiscal year 1995 and such necessary sums for each of the 4 succeeding fiscal years.

The House recedes, with an amendment: in paragraph (b) PRIORITY: insert after "(a) that" a "(1)" and insert after "youth or" a "(2)" and add after the end of the sentence "provided that entities receiving grants award pursuant to (b)(2) of this subsection coordinate in the development of new curricula".

90. The Senate amendment, but not the House bill, refers to Native Hawaiian Community-Based Education Learning Centers. Authorization appropriations are to be \$1 million for FY 95, and such sums as may be necessary for each of the 4 succeeding fiscal year.

The House recedes.

#### *Alaska Native Education*

10. The Senate amendment, but not the House bill, contains a provision authorizing \$5 million for an Alaska Native Education program, \$2 million for an Alaska Native Home Based Education for Preschool Children program, and \$1,000,000 for an Alaska Native Student Enrichment program.

The House recedes, moving the provision to a new Title IX.

#### TITLE X—SMALL BUT SIGNIFICANT PROGRAMS

The House bill cites this title as "Title II—Expanding Opportunities For Learning". The Senate amendment cites this title as "Title VIII—Programs of National Significance." The House recedes.

#### *Fund for the Improvement of Education*

##### *Authorization*

In paragraph (a), the House bill refers to "challenging standards." The Senate amendment refers to challenging State content standards and challenging State student performance standards." The House recedes.

##### *Use of Funds*

The House bill, but not the Senate amendment, permits research and development on content and performance standards and opportunity-to-learn standards. The Senate recedes with an amendment, inserting "or strategies" after "standards."

In paragraph (A)(i), the Senate amendment provides for the elimination of grouping practices and the development of programs that place all students on a college preparatory path of study. The House does not. The House recedes with an amendment, striking all language beginning with "and" after "practices" paragraph (i).

In paragraph (A)(ii), the Senate amendment provides for the development and evaluation of programs with strong parental involvement. The House does not. The House recedes.

In paragraph (A)(iii), the Senate amendment provides for the development and evaluation of strategies for integrating instruc-

tion and assessment. The House does not. The House recedes.

In paragraph (A)(iv), the Senate amendment provides for the development and evaluation of strategies for supporting professional development for teachers, counselors, and administrators. The House recedes with an amendment, inserting "pupil services personnel, including" before "guidance counselors."

The House bill refers to "public school choice in accordance with the requirements of part C." The Senate amendment refers to "public school choice."

The Senate recedes.

The Senate amendment refers to "Federal agencies, such as the National Science Foundation, the Department of Health and Human Services, and the Department of Labor, and with institutions of higher learning to assist the effort to achieve the National Education Goals". The House bill refers to "agencies to assist the effort to achieve the National Education Goals."

The Senate recedes.

The Senate amendment refers to "activities to promote and evaluate coordinated pupil service programs". The House bill has no such provision.

The House recedes.

The House bill refers to "(G) activities to promote consumer, economic, and personal finance education". The Senate amendment refers to "(K) activities to promote consumer education, such as saving, investing, and entrepreneurial education." The Senate recedes with an amendment, adding "such as saving, investing, and entrepreneurial education;" after "education;".

The Senate amendment refers to "activities to promote metric education". The House bill has no such provision.

The House recedes.

The House bill refers to "the identification and recognition of exemplary schools and programs, such as Blue Ribbon Schools". The Senate amendment has no such provision.

The Senate recedes.

The House bill refers to programs to reduce student mobility. The Senate amendment has no such provision.

The Senate recedes.

The House bill refers to public-private partnerships which would permit students to bring computers home. The Senate amendment has no such provision.

The Senate recedes.

The House bill has no parallel provisions to Senate amendment items: "(M)", "(N)", "(O)", "(P)", "(R)", "(T)." The House recedes with an amendment striking paragraphs "(N)" and "(T)" and modifying "(R)" to read as follows: "demonstrations relating to the planning and evaluation of the effectiveness of projects under which LEAs or schools contract with private management organizations to reform a school or schools."

In paragraph (2)(A), (B) and (C), the House bill provides for the establishment, content, and mission of the National Center for Second Language Development. The Senate amendment has no such provisions.

The House recedes.

#### *Awards*

##### *Authorization*

1. The House bill refers to "fiscal years 1996, 1997, 1998, and 1999." The Senate amendment refers to "4 succeeding fiscal years." The House recedes with an amendment authorizing FIE at \$50,000,000.

##### *Gifted and Talented Students*

##### *Findings*

The House bill refers to the standards "high"; the Senate amendment describes

standards as "challenging State content standards and challenging State student performance standards."

The House recedes.

The Senate amendment, but not the House bill, notes the experience gained should be used as a basis to "provide all students with important and challenging subject matter to study and encourage the habits of hard work."

The House recedes.

#### Definitions

The House bill, but not the Senate amendment, defines gifted and talented students as youth exhibiting a high performance capability and require services or activities not ordinarily provided by the school in order to fully develop their capabilities.

The House recedes.

#### Construction

The Senate amendment, but not the House bill, clarifies that a "recipient of funds under this part" will not be precluded from "serving gifted students simultaneously with students with similar educational needs, in the same educational setting."

The House recedes.

#### Establishment of Program

##### Uses of Funds

The Senate amendment, but not the House bill, refers to parents involved in gifted and talented programs.

The House recedes.

The Senate amendment, but not the House bill, includes the implementation of innovative strategies, such as cooperative learning, peer tutoring and service learning as programs using funding. The House recedes.

#### Establishment of National Center

##### Limitation

The House bill states a limitation of not more than 30 percent of available funds in a fiscal year for a program authorized by this section to carry out activities pursuant to subsections (b)(5) or (c). The Senate amendment limits programs authorized by this section and its activities pursuant to subsection (b)(7) or (c) to not more than \$1,750,000. The Senate recedes.

##### General Priority

The House bill, but not the Senate amendment includes "such as mentoring and apprenticeship program." The Senate recedes.

##### Review, Dissemination, and Evaluation

The House bill refers to "results of projects". The Senate amendment refers to "results of programs and projects." The House recedes.

The Senate amendment states that the programs shall be evaluated under this part in accordance with section 10701. The House bill states the programs will be evaluated under this part. The House recedes.

##### Administration

The House bill states specific duties of the administrative unit. The Senate amendment simply states that this administrative unit shall serve as a "focal point of national leadership and information on mechanisms to carry out the purpose of this part." The Senate recedes with an amendment, moving the Senate language regarding a person in the Department to administer these programs, "The Secretary . . . who shall", replacing the House language "The Secretary shall . . .", keeping the House's list of duties.

##### Authorization of Appropriations

The House bill authorizes appropriations of \$10,000,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal

years 1996, 1997, 1998, and 1999. The Senate amendment authorizes appropriations of \$20,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years. The Senate recedes.

The Senate amendment includes a trigger for appropriations, the House bill does not. The Senate recedes.

#### Public Charter Schools

The conferees intend that public entities authorized under state law have some relation to education and be capable of carrying out oversight, fiduciary and other administrative requirements related carry out such a grant.

##### Purpose

The House bill refers to "SEC. 3401. PURPOSE." The Senate amendment refers to "SEC. 8201. FINDINGS AND PURPOSE." The House recedes.

The House bill refers to "those schools on improving student achievement". The Senate amendment refers to "such schools." The House recedes with an amendment inserting "student achievement," after "students."

##### Findings

The Senate amendment, but not the House bill, presents findings on charter schools. The House recedes with amendments striking "new schools developed through such process should be free to test" at the beginning of paragraph (3) and in inserting "Charter Schools are a mechanism for testing"; and inserting "educationally disadvantaged" before students the first time it appears.

##### Program Authorized

The Senate amendment, but not the House bill, specifies that applications be approved pursuant to section 8203 and in accordance with this part. The House recedes.

The Senate amendment refers to "(b) SPECIAL RULE.—". The House has no such provision. The House recedes.

##### Project Periods

The Senate amendment, but not the House bill, creates two subparts: "GRANTS TO STATES" and "GRANTS TO ELIGIBLE APPLICANTS." The House recedes.

##### Limitation

The Senate amendment, but not the House bill, refers to "and State educational agencies shall not award more than one subgrant under this part." The House recedes.

##### Applications

The House bill heading reads in part "APPLICATIONS REQUIRED". The Senate amendment reads in part "APPLICATIONS FROM STATE AGENCIES." The House recedes.

The House bill and Senate amendment use different language to convey the same provision. However, the Senate amendment, but not the House bill, refers to "and containing or accompanied by such information as the Secretary may require." The House recedes.

The House bill, but not the Senate amendment, refers to "(b) SCOPE OF APPLICATION". The House recedes.

The House bill refers to "(c) APPLICATION CONTENTS.—Each such application shall include, for each charter school for which assistance is sought—". The Senate amendment refers to "(b) CONTENTS OF A STATE EDUCATIONAL AGENCY.—Each application submitted pursuant to subsection (a) shall—". The House recedes.

In paragraph (b)(1), the Senate amendment, but not the House bill, provides that applicants describe which objectives are to be fulfilled and how they will be accomplished. The House recedes.

In paragraph (3), the Senate amendment, but not the House bill, establishes that agencies desiring to be awarded a subgrant submit an application. The House recedes.

The House bill refers to "the local educational agency that will authorize or approve the school's charter and act as the grantee under this act". The Senate amendment refers to "the authorized public chartering agency." The House recedes.

The House refers to "local educational agency" and "the school is successful". The Senate amendment refers to "authorized public chartering agency" and "the school has met the objectives described in subparagraph (C)(i)." The House recedes.

The House bill, but not the Senate amendment, refers to "a description of any State or local rules, generally applicable to public schools, that will be waived for, or otherwise not apply to, the school." The Senate recedes.

The Senate amendment, but not the House bill, refers to "subgrant funds or grant funds, as appropriate, will be used, including a description of how such funds will be used in conjunction with other Federal programs administered by the Secretary." The House recedes.

The Senate amendment, but not the House bill, refers to "and the State educational agency." The House recedes.

The Senate amendment refers to "and the State educational agency in evaluating the program assisted under this part". The House bill refers to "in evaluating the program authorized by this part." The House recedes.

The Senate amendment, but not the House bill, refers to "and the State educational agency." The House recedes with an amendment inserting "Consistent with Section 8202(b)" before "Each".

The House bill heading in part reads "STATE EDUCATIONAL AGENCY APPROVAL REQUIRED.—" The Senate amendment reads "APPLICATIONS FROM ELIGIBLE APPLICANTS." The House recedes with an amendment striking "Eligible Agency."

The Senate amendment, but not the House bill, details content to be included in applications and the process by which an application shall be submitted. The House recedes with an amendment striking "sentence" and inserting "subsection."

##### Administration

The Senate amendment, but not the House bill, provides for the administration of the selection of applicants.

The House recedes with an amendment inserting "assisting educationally disadvantaged and other students" after "make to."

##### Selection of Grantees; Waivers

The House bill refers to "(a) CRITERIA.—The Secretary shall select". The Senate amendment refers to "(b) SELECTION CRITERIA FOR ELIGIBLE APPLICANTS.—The Secretary shall award" and includes "submitted under section 8203, after." The House recedes.

The Senate amendment refers to "State educational agency" and "charter school". The House bill refers to "State" and "school". The House recedes.

The House bill refers to "the plan". The Senate amendment refers to "the process." The House recedes with an amendment changing "process" to "strategy."

The House bill refers to "school". The Senate amendment refers to "charter school." The House recedes.

##### Peer Review

The Senate heading reads in part "(c)." The House reads "(b)." The House recedes.

The Senate amendment refers to "assistance under this part". The House bill refers to "grants under this section." The House recedes.

#### *Diversity of Projects*

The Senate amendment, but not the House bill, refers to "such as approaches designed to reduce school size." The House recedes.

#### *Waivers*

The Senate heading reads in part "(e)." The House reads "(d)." The House recedes.

#### *Uses of Funds*

The House bill and Senate amendment headings differ throughout this section. The House recedes.

#### *Allowable Activities*

The House bill refers to "(B) acquiring necessary equipment". The Senate amendment refers to "(ii) acquiring necessary equipment and educational materials and supplies." The House recedes.

The Senate amendment, but not the House bill, permits minor remodeling. The House recedes.

The Senate, but not the House, includes "ADMINISTRATIVE EXPENSES" and "REVOLVING LOAN FUNDS." The Senate recedes.

#### *National activities*

The House bill refers to "up to 10 percent of the funds appropriated for this part". The Senate amendment refers to "not more than 10 percent of the funds available to carry out this part." The House recedes.

The Senate amendment, but not the House bill, lists other activities assisted under this part. The Senate recedes.

#### *Definitions*

The House bill, but not the Senate amendment, refers to "the following terms have the following means." The House recedes with amendment striking "(C)."

In paragraph (B), the Senate amendment includes "and is operated under public supervision and direction." The House recedes.

In paragraph (C), The House bill refers to "the local educational agency applying for a grant on behalf of the school". The Senate amendment refers to "the authorized public chartering agency." The House recedes.

In paragraph (I), the House refers to "public schools". The Senate refers to "schools." The House recedes.

The House, but not the Senate, refers to "(K)." The Senate recedes.

The House bill and Senate amendment use different language to convey the same provision in "(3)." The Senate recedes.

The Senate, but not the House, defines "authorized public chartering agency." The House recedes.

#### *Authorization of Appropriations*

2. The House bill refers to "the fiscal years 1996, 1997, 1998, and 1999." The Senate amendment refers to "the 4 succeeding fiscal years." The House recedes with an amendment inserting "and approved by the Secretary" after "state law."

#### *Arts in Education*

##### *Findings*

The Senate amendment but not the House bill finds that participation in performing arts activities has proven to be an effective strategy for promoting the inclusion of persons with disabilities in mainstream settings. The House recedes.

The Senate amendment but not the House bill finds that opportunities in the arts have enabled persons of all ages with disabilities to participate more fully in school and community activities. The House recedes.

The House bill, but not the Senate amendment, finds that the arts can motivate at-risk students to stay in school and become active participants in the educational process.

The Senate recedes.

#### *Purpose*

The House bill states that a purpose of the bill is to help ensure that all students have the opportunity to learn challenging standards in the arts. The Senate bill refers to State content standards and State student performance standards. The House recedes.

#### *Eligible Recipients*

The Senate amendment, but not the House bill, includes museums and other cultural institutions as eligible recipients. The House recedes.

#### *Authorized Activities*

The Senate amendment, but not the House bill, includes as an authorized activity supporting collaborative activities with Very Special Arts. The House recedes.

The House bill states that authorized activities include supporting model projects and programs in the arts for individuals with disabilities through arrangements with the organization, Very Special Arts. The Senate amendment states that authorized activities include supported model projects and programs developed by Very Special Arts which assure the participation in mainstream settings in arts and education programs of persons of all ages with disabilities. The House recedes with an amendment, striking "developed" and "of all ages" in paragraph (8).

#### *Coordination*

The Senate amendment, but not the House bill, includes Very Special Arts. Technical difference. The House recedes.

The Senate amendment, not the House bill, states that if the amount appropriated for any fiscal year is \$9 million or less, such amount shall only be available to support model projects and programs developed by Very Special Arts which assure the participation in mainstream settings in arts and education programs of persons of all ages with disabilities and such projects and programs in the performing arts for children and youth through arrangements made with the John F. Kennedy Center for the Performing Arts. The House recedes.

#### *Inexpensive Book Distribution Program*

##### *Authorization*

The Senate amendment, but not the House bill, refers to (RIF). The House recedes.

##### *Requirements of Contract*

The House bill refers to "children up through high school age, including those in family literacy programs." The Senate amendment refers to "children from birth through secondary school age." The House recedes with an amendment, adding "including those in family literacy programs" after "secondary school age."

The House bill, but not the Senate amendment, refers to children with disabilities "including those with serious emotional disturbance." The House recedes.

##### *Definition of Federal Share*

The Senate amendment, but not the House bill, refers to 100 percent "of such costs to the subcontractor." The House recedes.

The House bill states that the federal share "shall not exceed 75 percent." The Senate amendment states that the federal share shall be 75 percent. The House recedes.

The House bill authorizes \$10.3 million for Fiscal Year 1995 and such sums for 1996, 1997, 1998 and 1999. The Senate amendment au-

thorizes \$11 million for Fiscal 1995 and such sums for each of the four succeeding fiscal years. The Senate recedes.

#### *Civic Education*

##### *General Authority*

The House bill says the Secretary "shall." The Senate amendment says the Secretary "is authorized." The House recedes.

##### *Contract or Grant Authorized*

The House bill refers to "the program required by paragraph (1). The Senate amendment refers to "the program described in paragraph (1). The House recedes.

##### *Special Rule*

The House bill refers to "advanced training of teachers in civics and government." The Senate amendment refers to "advanced training of teachers about the United States Constitution and the political system of the United States created." The House recedes.

The Senate amendment, but not the House bill, refers to a course of instruction in the middle school level. The House recedes.

##### *Program Established*

The House bill says the Secretary "shall." The Senate amendment says the Secretary "is authorized." The House recedes.

The House bill refers to "challenging content standards." The Senate amendment refers to "challenging State content standards and challenging State student performance standards." The House recedes.

##### *Authorized Activities*

The House bill refers to "our system of government." The Senate amendment refers to "our Nation's system of government." The House recedes.

The Senate amendment, but not the House bill, refers to "respect for cultural diversity and acceptance of cultural differences." The House recedes.

##### *Report*

The Senate amendment, but not the House bill, refers to section 10701. The Senate recedes.

##### *Authorization of Appropriations*

The House bill authorizes \$15 million for Fiscal 1995 and such sums for 1996, 1997, 1998, and 1999. The Senate amendment authorizes \$20 million for Fiscal 1997 and such sums for each of the succeeding four fiscal years. The Senate recedes.

The House bill allocates 40% for section 3701 and 60% for section 3702. The Senate amendment allocates 50% for section 8251 and 50% for section 8252. The Senate recedes.

#### *Native Hawaiian Education*

##### *Findings*

The Senate amendment, but not the House bill, notes the decline in the Native Hawaiian population from 1778 to 1921. The House recedes.

The House bill, but not the Senate amendment, refers to the Act of June 20, 1938, where the U.S. Congress acknowledged the unique status of the Hawaiian people. The Senate recedes.

The House bill, but not the Senate amendment, refers to the U.S. establishing educational programs to benefit Native Hawaiians. The Senate recedes.

The House bill refers to "the Native American Programs Act of 1992, as amended" and the "National Historic Act Amendments of 1992". The Senate amendment refers to "the National Museum of the American Indian Act", "National Historic Preservation Act", and the "Native American Languages Act." The House recedes with an amendment to combine the House and Senate provisions.

The House bill lists the special provisions the U.S. Congress has passed recognizing the trust relationship between the U.S. and the Native Hawaiian people. The Senate amendment simply states "numerous special provisions of law for the benefit of Native Hawaiians in the areas of health, education, labor, and housing". The House recedes.

The House bill, but not the Senate amendment, recognizes that a lower educational attainment among Native Hawaiians has been related to lower socioeconomic outcomes. The House recedes.

The House bill, but not the Senate amendment, indicates that native Hawaiian students are disproportionately under-represented in Institutions of Higher Education. The House recedes.

The House bill, but not the Senate amendment, states that Native Hawaiians are under-represented in traditional white collar and health care professions, while being over-represented in service occupations. The House recedes.

The Senate amendment, but not the House bill, refers to the 1988 enactment of title IV of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988. The House recedes.

The House bill and the Senate amendment, in similar, yet not identical, language refer to native Hawaiian children's educational risk factors. The House recedes.

The House bill, but not the Senate amendment, states "special efforts in education recognizing the unique cultural and historical circumstances of Native Hawaiians are required." The House recedes.

The Senate amendment, but not the House bill, refers to the under-representation of Native Hawaiians in institutions of higher education and among adults who have completed four or more years of college. The House recedes.

The Senate amendment, but not the House bill, refers to high retention and absenteeism rates among Native Hawaiian students. The House recedes.

The Senate amendment, but not the House bill, states that Native Hawaiian students are the highest drug and alcohol users. The House recedes with amendment, adding "in the State of Hawaii" after "alcohol" in paragraph (ii).

The Senate amendment, but not the House bill, states that Native Hawaiian children continue to be disproportionately victimized by child abuse and neglect. The House recedes.

The Senate amendment, but not the House bill, refers to the 23% of the students served by the State of Hawaii's Department of Education and their residence in rural, isolated areas. The House recedes.

The Senate amendment, but not the House bill, refers to contradictions between findings listed in paragraphs (1) through (15) and the high rate of literacy and integration of traditional culture and Western education achieved by Native Hawaiians through a Hawaiian language-based public school system. The House recedes.

The Senate amendment, but not the House bill, refers to the "Native Hawaiian Educational Assessment Project" released in 1983 by the Office of Education to Congress and its findings. The House recedes.

The Senate amendment, but not the House bill, notes that the Kamehameha Schools Bishop Estate released a ten-year update of the Native Hawaiian Educational Assessment Project. The House recedes.

The Senate amendment, but not the House bill, mentions the banning of Hawaiian medium schools. The House recedes.

The Senate amendment, but not the House bill, refers to the Native Hawaiians' determination to "preserve, develop, and transmit to future generations their ancestral territory." The House recedes.

The Senate amendment, but not the House bill, refers to the distinct land rights of the Native Hawaiian people. The Senate recedes.

The Senate amendment, but not the House bill, mentions the distinct land rights of Native Hawaiians and their unique religious customs and beliefs. The House recedes.

The Senate amendment, but not the House bill, recognizes the traditional language of the Native Hawaiian people as an official language of the State of Hawaii. The House recedes.

#### *Purpose*

The House bill states educational programs are to "assist" Native Hawaiians in "reaching the National Educational Goals". The Senate amendment simply states educational programs are to "benefit" Native Hawaiians. The Senate recedes.

The Senate amendment, but not the House bill, refers to the establishment of a Native Hawaiian Education Council and five island councils. The House recedes.

The House bill states the purpose of this part includes the "encouragement of maximum participation of Native Hawaiians in planning and management of Native Hawaiian Education Programs." The Senate amendment refers to this concept in the findings. The Senate recedes.

#### *Establishment*

Both the House bill and the Senate amendment provide for a Native Hawaiian Education Council. The Senate amendment, but not the House bill, includes the provision for island councils. The House recedes.

#### *Composition*

The Senate amendment, but not the House bill, states the Education Council shall consist of not more than 25 members. The House recedes.

The House bill, but not the Senate amendment, states the composition of the council shall consist of, "but not be limited to", "representatives of each of the programs which receive Federal funding under this part"; "a representative from the Office of the Governor"; "a representative from the Office of Hawaiian Affairs"; "representatives of other Native Hawaiian Educational organizations and Native Hawaiian organizations which receive Federal or state education funds"; and "parent, student, educator and community organizations." The House recedes.

The Senate amendment, but not the House bill, includes in its member list, "each recipient of funds from the Secretary under this part"; a representative from the Office of Hawaiian Affairs, Department of Education in Hawaii, and specifically mentioned educational organizations. The House recedes.

The Senate amendment, but not the House bill, states a representative will serve on the council from "each Native Hawaiian education island council established under subsection (f)." The House recedes.

#### *Conditions and Terms*

The House bill indicates that at least half of the members shall be Native Hawaiians. The Senate amendment states that at least three-fourths of the members shall be Native Hawaiians. The House recedes.

The House bill states that members of the Education Council will serve for five year terms. The Senate amendment states members will be appointed for three-year terms. The House recedes.

#### *Duties and Responsibilities*

The House bill and the Senate amendment state the Education Council will provide information to Congress. The Senate amendment, not the House bill, specifically states particular entities to which the reports will be delivered. The House recedes.

The House bill, but not the Senate amendment, states that the Secretary shall, whenever practicable, consult with the Council before taking any significant action related to the education of Native Hawaiians. The House recedes.

The Senate amendment, but not the House bill, refers to island councils and the support the Education Council will provide these councils. The House recedes.

#### *Administrative Provisions*

The House bill, but not the Senate amendment, makes a statement that the Council will meet at the call of the Chair, or upon the request of the majority of the Council. The Senate recedes.

The Senate amendment, but not the House bill, outlines the purpose of the administrative grant for the Education Council. The House recedes.

#### *Compensation*

The House bill, but not the Senate amendment, requires that compensation for service will not be given to any member of the Native Hawaiian Council. The Senate recedes.

#### *Report to Congress*

The House bill, but not the Senate amendment mandates a report to Congress not later than 4 years after the date of enactment of the Improving America's Schools Act. The Senate recedes.

#### *Establishment of Island Councils*

The Senate amendment, but not the House bill, introduces island councils and their composition. Specific administrative provisions, compensation, report requirements, and authorization of appropriations are described. The House recedes.

#### *Application Required*

The Senate amendment, but not the House bill, articulates the application required for a grant that is to be made to the Secretary in order to carry out the provisions of this part. The House recedes.

#### *Native Hawaiian Language Immersion Authority*

The House bill, but not the Senate amendment details a state-wide effort to revitalize the Native Hawaiian language. Administrative costs are set at no more than 7 percent of the funds appropriated. Authorized appropriations are to be \$1,500,000 for fiscal year 1995 and such sums as may be necessary for fiscal years 1996 through 1999. The House recedes.

#### *Native Hawaiian Family-Based Education Centers*

The Senate amendment, but not the House bill, states educational entities with "experience" in developing or operating Native Hawaiian programs. The House bill does not use "experience." The House recedes.

The House bill states that a minimum of eleven Family-Based Education Centers throughout the Hawaiian Islands be developed. The Senate amendment refers to no such minimum. The House recedes.

The Senate amendment, but not the House bill, articulates that the programs of such centers "may be conducted in either the Hawaiian language, the English language, or a combination thereof." The House recedes.

*Native Hawaiian Higher Education Demonstration Program*

The House bill, but not the Senate amendment, states that the Secretary shall make grants to the Kamehameha Schools/Bernice Pauahi Bishop Estate. The Senate amendment generalizes, stating grants will be given to Native Hawaiian educational organizations. The House recedes.

*Mandatory Activities*

The Senate amendment, but not the House bill states mandatory activities include full or partial fellowship support for Native Hawaiian students enrolled in higher institutions of education. The House bill simply says "may include." The Senate recedes.

The Senate amendment, but not the House bill, includes "fellowship" in its conditions of recipients. The Senate recedes.

The Senate amendment, but not the House bill, includes a section titled "Permitted Activities" listing those which the House bill mentions under no such subsection. The Senate recedes.

The House bill, but not the Senate amendment, has a section titled "Grants Authorized." The House recedes.

The Senate amendment, but not the House bill, refers to the completion of a baccalaureate program. The House recedes.

The House bill, but not the Senate amendment, includes "within the State of Hawaii" after "Native Hawaiian community." The House recedes.

*Special Rule*

The House bill, but not the Senate amendment, includes a special rule that no policy be implemented to prevent a Native Hawaiian student enrolled at a higher education institution outside of the State of Hawaii from receiving a fellowship. The Senate recedes.

*Authorization of Appropriations*

The House bill, but not the Senate amendment, authorizes \$1,500,000 for fiscal year 1995 and such sums may be necessary for fiscal years 1996 through 1999 for funding fellowship assistance demonstration project provided under subsection (b). The House recedes.

*Native Hawaiian Gifted and Talented Program*

The House bill, but not the Senate amendment, states there will be an establishment of a Native Hawaiian Gifted and Talented Center at the University of Hawaii at Hilo. The Senate amendment does not specify a program at the University. The House recedes.

The House bill, but not the Senate amendment, specifies demonstration projects will be designed to address gifted and talented students. The Senate amendment makes no reference to demonstration projects. The House recedes.

The House bill, but not the Senate amendment, details the terms of the grant or contract. The House recedes.

The House bill, but not the Senate amendment, states that "such grant or contract shall be subject to the availability of appropriated funds and, contingent on satisfactory performance by the grantee." The House recedes.

*Uses of Funds*

The Senate amendment, but not the House bill, specifies "Native Hawaiian" gifted and talented students. The House recedes.

The House bill, but not the Senate amendment, incorporates public television in meeting educational needs of gifted and talented children. The House recedes.

The Senate amendment, but not the House bill, refers to coordination with "other Na-

tive American gifted and talented programs." The House recedes.

*Information Provision*

The House bill, but not the Senate amendment, states the Secretary will establish a national network of Native Hawaiian and American Indian Gifted and Talented Centers and impart any information to the educational community. The Senate recedes with an amendment striking "shall" and inserting "is authorized to".

The House bill provides \$2,000,000 for fiscal year 1995 and such necessary sums for fiscal years 1996 through 1999. The Senate amendment provides \$1,500,000 for fiscal year 1995, and necessary sums for each of the succeeding 4 fiscal years. The House recedes.

*Special Education Authority*

The House bill, but not the Senate amendment, refers to Pihana Na Mamo, while the Senate amendment mentions general educational organizations. The House recedes.

The House bill uses "children"; the Senate amendment uses "students." The House recedes.

The Senate amendment, but not the House bill, refers to emotional impairments. The House recedes with amendment, striking "learning" and "mental or physical disabilities, emotional impairments."

The House bill, but not the Senate amendment, refers to children at the elementary school level. The House recedes.

The Senate amendment, but not the House bill, refers to part B of the Education of Individuals with Disabilities Education Act. The House recedes.

The Senate amendment, but not the House bill, refers to "the conduct of educational, psychosocial, and developmental activities" of Native Hawaiian students. The House recedes.

The Senate amendment, but not the House bill, refers to "appropriate research, evaluation, and related activities." The House recedes.

The House bill, but not the Senate amendment, refers to the Secretary who may not make a grant or provide funds pursuant to a contract under this subsection. The House recedes.

The House bill, but not the Senate amendment, discusses non-Federal contributions. The House recedes.

*Application Required*

The House bill, but not the Senate amendment, refers to an "application required" to be submitted to the Secretary. The Senate recedes.

*Definitions*

The House bill and the Senate amendment have similar, but not identical, language defining the term "Native Hawaiian". The House bill states specifically "a citizen of the United States", and a "resident of the State of Hawaii." The Senate recedes.

The House bill states "birth records of the State of Hawaii", where the Senate amendment merely states "certified birth records." The House recedes. The conferees intend that genealogical records should be defined to include birth, marriage and death records.

The House bill, but not the Senate amendment, mentions the term "Secretary" as meaning the Secretary of Education. The House recedes.

The House bill, but not the Senate amendment, refers to "demonstrated expertise in research and program development." The Senate recedes.

The House bill, but not the Senate amendment, includes the definition of a "Native Hawaiian Organization." The Senate recedes.

The House bill, but not the Senate amendment, includes the term "elementary school" as meaning the same as indicated in section 9101 of the same act. The House recedes.

The Senate amendment, but not the House bill, refers to the definition of "Native Hawaiian language" and the term "Office of Hawaiian Affairs." The House recedes.

The Senate amendment, but not the House bill, refers to the definition of "Native Hawaiian community-based organization." The House recedes.

The House bill, but not the Senate amendment, includes the term "local educational agency." The House recedes.

The House bill, but not the Senate amendment, includes the term "secondary school." The House recedes.

The Senate amendment, but not the House bill, includes Native Hawaiian Curriculum Development, Teacher Training and Recruitment Program. Specifics mentioned are curricular development, preteacher training, inservice teacher training, and teacher recruitment. Administrative costs are to be not more than 7 percent of the funds appropriated for fiscal year 1995 and such necessary sums for each of the 4 succeeding fiscal years. The House recedes, with an amendment: in paragraph (b) PRIORITY: insert after "(a) that" a "(1)" and insert after "youth or" a "(2)" and add after the end of the sentence "provided that entities receiving grants awarded pursuant to (b)(2) of this subsection coordinate in the development of new curricula".

The Senate amendment, but not the House bill, refers to Native Hawaiian Community-Based Education Learning Centers. Authorization appropriations are to be \$1 million for FY 95, and such sums as may be necessary for each of the 4 succeeding fiscal years. The House recedes.

*Allen J. Ellender Fellowship Program*

The House bill refers to "physically challenged students, visually- and hearing-impaired students." The Senate amendment refers to "students with disabilities." The House recedes.

*Contents of Application*

The House bill refers to "physically challenged students, visually- and hearing-impaired individuals." The Senate amendment refers to "individuals with disabilities." The House recedes.

*Authorization of Appropriations*

18. The House bill authorizes \$4.4 million and such sums for each of the fiscal years 1996, 1997, 1998, and 1999. The Senate amendment authorizes \$4.5 million for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years. The Senate recedes.

*Territorial Education Improvement Program*

The House bill entitles the program the "Territorial Education Improvement Program." The Senate amendment entitles the program the "Territorial Teacher Training Program." The Senate recedes with an amendment inserting "deLugo" in the program title.

The House bill, but not the Senate amendment, has provisions for Findings and Purposes. The Senate recedes.

*Authorization*

The House bill authorizes \$5 million for each of the fiscal years 1994 through 1999. The Senate amendment authorizes \$2 million for fiscal year 1995 and such sums for each of the succeeding four fiscal years. The Senate recedes with an amendment changing the authorization from \$5 million to \$3 million.

*Grant Authorization*

The House bill authorizes "an education improvement program." The Senate amendment refers to "assisting teacher training programs." The Senate recedes.

The House bill authorizes "an education improvement program." The Senate amendment refers to "assisting teacher training programs." The Senate recedes.

The House bill refers to "Palau until the effective date of the Compact of Free Association with the Government of Palau." The Senate amendment refers to "Palau." The Senate recedes.

The House bill refers to the "Northern Mariana Islands." The Senate amendment refers to "the Commonwealth of the Northern Mariana Islands." The House recedes.

The Senate amendment also includes the Republic of the Marshall Islands and the Federated States of Micronesia. The House recedes.

The House bill refers to making "grants to fund innovative education improvement programs which will increase student learning." The Senate amendment refers to "grants or contracts with any organization considered qualified to provide training for teachers in such schools and shall allot such sums among such territories on the basis of the need for such training." The Senate recedes.

The House bill contains a section on restrictions. The Senate recedes.

*Blue Ribbon Schools Program*

The Senate amendment, but not the House bill, contains a provision authorizing a \$1 million Blue Ribbon Schools program. The Senate recedes with an amendment to move this to the Fund for the Improvement of Education.

*National Student and Parent Mock Election*

The Senate amendment, but not the House bill, contains a provision authorizing a \$125,000 National Student and Parent Mock Election Program. The House recedes with an amendment to place the program in FIE and with an amendment in paragraph (a) to strike "in" after "grants" and to strike "election" after "every" and to strike the authorization of appropriations in subsection (c).

*Elementary School Counseling Demonstration*

The Senate amendment, but not the House bill, contains a provision authorizing \$1 million for an Elementary School Counseling Demonstration Act. The House recedes with an amendment, moving this program to FIE.

*Model Projects*

The Senate amendment, but not the House bill, contains a provision authorizing \$5 million for a Model Projects program for grants to cultural institutions for outreach activities for at-risk children.

The House recedes with an amendment moving this program to FIE and striking the authorization of appropriations in subsection (c).

*Extended Time for Learning*

The Senate amendment, but not the House bill, contains a provision authorizing \$20 million for an Extended Time for Learning program.

*Longer School Year*

The Senate amendment, but not the House bill, contains a provision authorizing \$100 million for a Longer School Year incentive program.

*Creating Smaller Learning Communities*

8. The Senate amendment, but not the House bill, contains a provision authorizing \$20 million for a Creating Smaller Learning

Communities program. The House recedes with an amendment moving this program to FIE.

*Partnerships in Character Education Pilot Project*

The Senate amendment, but not the House bill, contains a provision authorizing \$6 million for a Partnerships in Character Education Pilot Project. The House recedes with an amendment moving the program to FIE. See attached language at back.

*Alaska Native Education*

The Senate amendment, but not the House bill, contains a provision authorizing \$5 million for an Alaska Native Education program, \$2 million for an Alaska Native Home Based Education for Preschool Children program, and \$1,000,000 for an Alaska Native Student Enrichment Program. The House recedes, moving the provision to a new Title IX.

*Promoting Scholar-Athlete Competitions*

The Senate amendment, but not the House bill, contains a provision authorizing \$1 million for a program to promote Scholar-Athlete Competitions. The House recedes with an amendment to move it to FIE with language to appear as follows: "The Secretary is authorized to award a grant to a non-profit organization to reimburse such organization for the costs of conducting scholar-athlete games to be held in 1995. In awarding the grant the Secretary shall give priority to a non-profit organization that (A) is described in section 501(c)(3) of, and exempt from taxation under section 501(a) of, the Internal Revenue Code of 1986, and is affiliated with a university capable of hosting a large educational, cultural, and athletic event that will serve as a national model; (B) has the capability and experience in administering federally funded scholar athlete games; (C) has the ability to provide matching funds, on a dollar-for-dollar basis, from foundations and the private sector for the purpose of conducting a scholar-athlete program; which has the organizational structure and capability to administer a model scholar-athlete program in the summer of 1995; (E) has the organizational structure and expertise to replicate the scholar-athlete program in various venues throughout the United States in 1996 and thereafter, as replicate such program internationally; and (F) has plans for conducting scholar-athlete games after 1995 without federal assistance."

*Cultural Partnerships for At-Risk Children and Youth Act of 1994*

The House bill part is entitled "Community Arts Partnership Act of 1994" while the Senate amendment part is entitled "Cultural Partnerships for At-Risk Children and Youth Act of 1994." The House recedes.

The House bill refers only to the inadequacy of arts programs available for children in schools; the Senate amendment refers to "arts and cultural programs available for children and youth." The House recedes.

The House bill, but not the Senate amendment, finds that the art promote progress in academic subjects as shown by research conducted by the National Endowment for the Arts. The Senate recedes.

The House bill, but not the Senate amendment, finds that the arts access multiple human intelligences and develop higher-order thinking skills. The House recedes.

The House bill, but not the Senate amendment, finds that the "arts generate self-esteem and positive emotional responses to learning." The Senate recedes with an amendment deleting 3502(a)(4) and inserting

in lieu thereof: "Learning in the arts and humanities promotes progress in other academic subjects, and generates positive self-esteem and a greater sense of accomplishment in young people."

The House bill states only that "children who receive instruction in the arts remain in school longer and are more successful than children who do not receive such instruction"; the Senate amendment refers to children and youth who receive instruction in the arts and humanities, or who are involved in cultural activities. The House recedes.

The Senate amendment, but not the House bill, finds that "school-university partnerships that upgrade teacher training in the arts and humanities have significantly contributed to improved instruction and achievement levels of school-aged children." The House recedes with an amendment inserting "and school-cultural institution" after "school-university" and inserting a new paragraph after Senate section 11102(4) stating: "The Goals 2000: Educate America Act, other legislation and local, state and national resources support the integration of the arts and humanities into the regular curriculum and school day of all children. While all children benefit from this instruction in the arts and the humanities, at-risk children and youth have a special, additional need for arts and cultural programs both in school and after school."

The Senate amendment, but not the House bill, finds that museum outreach, cultural activities and informal education for at-risk children and youth have contributed significantly to their educational achievement. The House recedes.

The House bill includes a statement of purpose, the Senate amendment does not. The Senate amendment part is entitled "Subgrants" and involves grants from a Committee. The Senate recedes.

The House bill part is titled "Grants Authorized," the Senate amendment is titled "Award of Subgrants." The Senate recedes.

The House bill states that the "Secretary is authorized to award grants to eligible entities to pay the Federal share of the costs of activities" authorized under this title. The Senate amendment states that the Committee shall award subgrants to eligible entities. The Senate recedes.

The House bill part is entitled "Special Requirements" and states that the Secretary shall award grants under this Act to programs; the Senate amendment contains no such statement. The Senate recedes.

The House bill permits the Secretary to award grants to "programs designed to promote educational and cultural services"; the Senate speaks of "promoting and enhancing educational and cultural activities." The House recedes.

The House bill permits the Secretary to award grants to programs designed to provide multi-year services to at-risk children and youth; the Senate amendment contains no such part. The Senate recedes with an amendment inserting "and to integrate community cultural resources into in-school and after-school educational programs;" after "children and youth."

The Senate amendment, but not the House bill refers to a Committee which shall award subgrants to improve educational performance. The Senate recedes with an amendment striking all of Senate section 11103(a)(2).

The House bill, but not the Senate amendment, permits the Secretary generally to award grants to programs designed to serve the needs of at-risk children and youth. The House recedes.

The House bill permits the Secretary to award grants for programs designed to provide integration of community cultural resources in the regular curriculum; the Senate amendment speaks of integration into the regular curriculum and the school day. The House recedes.

The House bill permits the Secretary to award grants to programs designed to "provide effective cultural linkages from preschool programs," including preschool grants under the Individuals with Disabilities Education Act, to elementary schools. The Senate amendment refers to the provision of cultural programs to "facilitate the transition from preschool programs to elementary school programs, including programs under the Head Start Act and part H of the Individuals with Disabilities Education Act." The House recedes.

The Senate amendment, but not the House bill, states that facilitation of school to work shall be done through educational programs and activities that utilize school resources. The House recedes.

The House bill permits the Secretary to award grants to programs designed to increase parental and community involvement in the development of at-risk youth. The Senate amendment states that such development shall be of at-risk children and youth. The House recedes.

The House bill permits the Secretary to award grants to programs designed to "replicate programs and strategies that provide high quality coordinated educational and cultural services and that are designed to integrate such coordination into the regular curriculum." The Senate amendment refers to the development of such programs and strategies that are designed also to replicate the services in other schools. The House recedes with an amendment striking Senate section 11103(c)(1)(G)(ii) and inserting in lieu thereof: "provide a model to replicate these services in other schools and communities."

The Senate amendment, but not the House bill, refers to a Demonstration Program and states that the Secretary shall award all funds appropriated under this title to the Committee. The House recedes with an amendment striking Senate section 1103(a)(1) and inserting in lieu thereof a paragraph entitled "Partnership" and stating: "An inter-agency partnership comprised of the Secretary of Education, the Chairman of the National Endowment for the Humanities, the Chairman of the National Endowment for the Arts, and the Director of the Institute of Museum Services, or their designees, shall establish criteria and procedures for awarding grants, including the establishment of panels to review the applications, and shall administer the grants program authorized by this Section. The Secretary shall publish such criteria and procedures in the Federal Register."

The Senate amendment states that the Committee may reserve up to 5% of grant funds for administration and that grant recipients may also reserve 5% of grants for administration. The House bill has no such provisions. The House recedes with an amendment striking the word "Committee" and inserting in lieu thereof the word "Secretary."

The House bill part is entitled "Requirement of Coordination" and refers to grants received by the members of the partnership for purposes and target populations described into an integrated service delivery system located at a school, cultural, or other community-based site accessible to and utilized by at-risk youth. The Senate amend-

ment is entitled "Coordination" and does not refer to such an integrated service delivery system. The Senate recedes with an amendment eliminating "Requirement of" in the title of the subsection.

The House bill part is entitled "Duration" and states that grants made under this part may be renewable upon the Secretary's determination of satisfactory progress for a maximum of 5 years. The Senate amendment part is entitled "Renewal" and states that the Committee is to make the determination of satisfactory progress. The Senate recedes.

The House bill states that the "Secretary shall ensure an equitable geographic distribution" and an "equitable distribution to both urban and rural areas with a high proportion of at-risk youth." The Senate bill states that the "Committee, to the extent feasible, shall ensure an equitable geographic distribution of subgrants." The House recedes with an amendment striking the word "Committee" and replacing it in lieu thereof with the word "Secretary."

The House bill part is entitled "Eligibility" and the subpart entitled "Services for In-School Youth; the Senate amendment is entitled "Eligible Entities." The House recedes with an amendment adding "and after school" after "in-school" in Senate section 11103(a)(3)(A).

The House bill defines an "eligible entity" as a partnership between a Title I eligible LEA and an institution of higher education or cultural entity located within or accessible to the boundaries of the LEA. The Senate amendment defines an "eligible entity" to include an individual school eligible to participate in a schoolwide program, explicitly makes museums and local arts agencies eligible for such partnerships and requires that the entity partnering with a school or LEA be accessible to individuals within the local school district. The House recedes.

The House bill, but not the Senate amendment, explicitly permits "libraries, performing, presenting and exhibiting arts organizations; literary arts organizations" and local arts organizations to enter into partnerships. The Senate amendment, but not the House bill explicitly includes cultural institutions and local arts agencies. The Senate recedes with an amendment adding "state and" prior to the phrase "local arts organizations," and an amendment adding "cultural institutions;" before the word zoological.

The House bill requires that "private for-profit entities" have a history of training children and youth in the arts. The Senate amendment specifies an "effective history of training" such individuals in the arts or humanities. The House recedes with an amendment striking the word "effective."

The House bill makes Title I eligible for partnerships for out of school youth. The Senate amendment permits any LEA or schoolwide program eligible school to be so qualified. The House recedes with an amendment striking Senate section 11103(a)(3)(b).

The Senate amendment, but not the House bill, states that the families of students shall only be served "to the extent practical." The House recedes.

The House bill, but not the Senate amendment includes in its target population out-of-school youth at risk of having limited future options as a result of teenage pregnancy, family migration or being a high school dropout. The Senate amendment refers to out-of-school children and youth at risk of disadvantages resulting from dropping out of school. The House recedes.

The House bill refers to at-risk youth; the Senate amendment refers to at-risk children and youth. The House recedes.

The House bill refers to ensuring the smooth transition of preschool children to elementary school, the Senate amendment refers to fostering such a transition. The House recedes.

The House bill includes as authorized activities, work with existing school personnel to develop curriculum materials and programs in the arts. The Senate amendment refers only to curriculum materials, not programs, in the arts. The Senate recedes.

The House bill includes as authorized activities, work with existing school personnel on staff development activities that encourage the integration of the arts into the curriculum. The Senate amendment does not refer to work with such school personnel. The Senate recedes.

The Senate amendment and the House bill refer to stipends for arts and humanities professionals to work with at-risk children and youth in schools. The House recedes with an amendment to Senate Section 11104(a)(8) striking the word "arts" and inserting in lieu thereof the word "artists."

The Senate amendment, but not the House bill, refers to training individuals who are not trained to work with children and youth. The House recedes.

The House bill refers to stipends for local artists work with at-risk children and youth; the Senate amendment refers to arts and humanities professionals working with such at-risk individuals. The House recedes.

The House bill states that the arts should be used to reform school practices; the Senate amendment refers to the arts and culture. The House recedes.

The House bill refers to appropriate equipment and necessary supplies. The Senate amendment refers to appropriate equipment or supplies. The House recedes.

The House bill requires the Secretary to give priority to eligible entities providing services beyond traditional school hours and refers to year round programs that provide services in the evenings and on weekends. The Senate version gives discretion to the Committee as to whether to give priority to programs extending beyond traditional school hours and does not refer to year round programs. The Senate recedes with an amendment striking Senate section 11103(c)(5).

The Senate amendment establishes a Committee comprised of 8 members of whom 2 shall be appointed by the Secretary of Education, 2 by the National Endowment for the Arts, 2 by the National Endowment for the Humanities and 2 by the Institute of Museum Services. The House bill contains no such provision. The Senate recedes.

The House bill part is entitled "Planning Grants," the Senate amendment is entitled "Planning Subgrants." The Senate recedes.

The House bill refers to applications made to the Secretary, the Senate amendment refers to awards by the Committee. The Senate recedes.

The House bill refers to applications made to the Secretary. The Senate amendment refers to applications made to the Committee. The Senate recedes.

The Senate amendment, but not the House bill, refers to applications submitted to the Committee. The Senate recedes.

The Senate amendment, but not the House bill, permits an individual school to apply for grants under this title. The House recedes.

The House bill, but not the Senate amendment, requires that applications describe the nature and location of sites where services will be delivered and a description of those services. The Senate recedes.

The Senate amendment, but not the House bill, requires that applications describe the training that will be provided to individuals who are not trained to work with children and youth and how teachers will be involved. The House recedes.

The House bill states that the amount of a grant may not be less than \$100,000 nor more than \$500,000 in the first year. The Senate amendment states that subgrants awarded under this title shall be of sufficient size, scope and quality to be effective. The House recedes.

The Senate amendment, but not the House bill, permits that the 20% of the non-federal share of programs required may include the provision of equipment. The House recedes.

The House bill, but not the Senate amendment restrict the scope of this section to amounts that exceed the amounts expended for such activities in the year preceding the year for which the grant is awarded. The Senate recedes.

The Senate amendment, but not the House bill, requires that the Secretary disseminates information concerning successful models under this title in consultation with the Committee. The House recedes with an amendment striking the language of Senate Section 11107 and inserting in lieu thereof: "The Secretary, in consultation with the Chairman of the National Endowment for the Humanities, the Chairman of the National Endowment for the Arts and the Director of the Institute of Museum Services, or their designees, shall submit successful models under this Title to the National Diffusion Network for its review."

The House bill authorizes \$75 million for FY 1995 and such sums as may be necessary for the each of fiscal years 1996, 1997, 1998, 1999. The Senate bill authorizes \$25 million for FY 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years. The House recedes with an amendment striking the term "\$20,000,000" and placing in lieu thereof "\$45,000,000."

The Senate amendment but not the House bill requires that before any appropriations are made for this title, \$177 million shall be appropriated for the National Endowment for the Humanities, \$170 million shall be appropriated for the National Endowment for the Arts and \$28 million shall be appropriated for the Institute of Museum Services. The Senate recedes.

The Senate amendment, but not the House bill, states that the Committee shall award subgrants under this title so as to ensure nonduplication of services provided by subgrant recipients and services provided by the National Endowment for the Humanities, the National Endowment for the Arts, and the Institute for Museum Services. The House recedes with an amendment deleting the words "subgrant" and "subgrants" where they appear and inserting in lieu thereof "grant" or "grants" respectively and deleting the word "Committee" and inserting in lieu thereof the word "Secretary."

The Senate amendment, but not the House bill, states that the Committee is to establish and transmit to the Secretary criteria and procedures for awarding subgrants under this Title. The Secretary is to publish such criteria and procedures in the Federal Register. The Senate recedes.

The Senate amendment but not the House bill requires the involvement of a certified teacher or trained instructor in carrying out the activities of a subgrant. The Senate recedes.

## STATEMENT OF MANAGERS

## NATIONAL WRITING PROJECT

1. The House bill, but not the Senate amendment, amends Section 201 of the National Writing Project provisions.

The House recedes.

2. The House bill eliminates a finding in current law which states that only 25 percent of 11th grade students have adequate analytical writing skills, and replaces that provision with (2), which states that the writing problem has been magnified by the rapidly changing student populations and the growing number of at-risk students due to limited English proficiency.

The Senate recedes.

3. The House bill amends current law finding to read as follows:

"(6) Writing and reading are both fundamental to learning, yet writing has been historically neglected in the schools and colleges, and most teachers in the United States elementary schools, secondary schools, and colleges have not been trained to teach writing."

The Senate recedes.

4. The House bill amends finding (10) in current law by giving examples of fields in which the National Writing Project has become a model from programs to improve teaching.

The Senate recedes.

5. The House bill amends current law finding (15) by changing the number of teachers seeking NWP training from 85,000 to 100,000. The House bill also strikes the statement that these teachers seek training through word of mouth endorsements from other NWP teachers, and instead, states that they seek the training through one of the 154 regional sites located in 45 States, the Commonwealth of Puerto Rico, and in 4 sites that serve U.S. teachers teaching in U.S. dependent and independent schools. The Senate recedes.

6. The House bill eliminates a finding (17) in current law which states that 13 National Writing Project sites in 8 different states have been discontinued in 1988 due to lack of funding.

The Senate recedes.

7. The House bill adds two new findings to current law findings stating that independent evaluation studies have found the NWP to be highly cost effective and that during 1991, the first year of Federal support for the NWP, the National Writing Project matched the \$1,951,975 in Federal support with \$9,485,504 in matching funds from State, local, and other sources.

The Senate recedes.

8. The Senate amendment adds a new provision to Section 202(a) which authorizes grants to coordinate activities assisted under this section with activities assisted under Part A—Eisenhower Professional Development Program. The House bill has no comparable provision.

The House recedes.

9. Both the House bill and the Senate amendment make identical changes to 202(d)—Federal Share such that the subsection reads as it is laid out here on the Senate version.

The House recedes.

10. Technical changes in House bill changing "to enable" as written in Senate amendment to "to pay the Federal share of the cost of enabling".

The Senate recedes.

11. The House bill, but not the Senate amendment, adds a new paragraph (4) which provides that for the purpose of this subsection, the term "Federal share" means,

with respect to the costs of activities assisted under this subsection, 50 percent of such costs to the elementary or secondary school teacher."

The Senate recedes.

12. The House bill, but not the Senate amendment both make changes to current law section (g)—Evaluation. The Senate amendment provides that the Secretary shall conduct an independent evaluation by grant or contract of the teacher training programs administered pursuant to this Act in accordance with section 10701. The House bill does not specify "by grant or contract", and refers to programs assisted under this section.

The House recedes.

13. The House bill does not the Senate amendment adds a subsection (2) entitled Funding Limitation, which provides that the Secretary shall reserve not more than \$150,000 from the total amount appropriated pursuant to the authority of subsection (1) for fiscal year 1994 and the 4 succeeding fiscal years to conduct the evaluation described in paragraph (1).

The Senate recedes.

14. The House bill makes technical changes to current law, section (h) entitled Research and Development Activities, and provides that the National Writing Project shall make grants to individuals and institutions of higher education that either have participated in a National Writing Project institute or are institutions designated as NWP sites, to enable such individuals and institutions to conduct research activities involving the teaching of writing. [Under current law, this provision provides that the Secretary, through OERI, shall make grants to individuals and institutions of higher education to conduct research activities involving the teaching of writing.] The Senate amendment eliminates this entire section.

The House recedes.

15. The House bill adds a new provision, (2) entitled Application Review, which provides that the National Writing Project shall establish a National Review Board.

The Senate recedes.

16. The House bill, but not the Senate amendment, updates subsection (i) by authorizing for the National Writing Project \$10,000,000 for FY 1994 and such sums as may be necessary for each of the four succeeding fiscal years. The House bill also amends paragraph (2) of subsection (i) to provide that in each fiscal year in which the appropriation equals or exceeds \$10,000,000, there are authorized to be appropriated \$500,000 to carry out subsection (h). The Senate amendment authorizes to be appropriated for the National Writing Project \$4,000,000 for FY 1995, and such sums. The Senate amendment does not have a corresponding provision for R&D appropriations because it eliminated that provision.

The House recedes.

17. The House bill maintains current law by requiring the Secretary to give priority to junior researchers and to award at least 25 percent of the funds received to junior researchers. The House bill also eliminates a provision requiring the Secretary to make available to the National Writing Project and other information dissemination networks the findings of the research conducted through OERI. The Senate amendment eliminates these provisions.

The House recedes.

## TITLE XI—COORDINATED SERVICES PROJECTS

The House bill includes a separate title in ESEA which allows local educational agencies to use up to 5 percent of the funds they

receive under ESEA programs (see the ESEA general provisions side-by-side) for the coordination of social, health and education services necessary for students to succeed in school and for their families to take an active role in ensuring that children receive the best possible education; the Senate amendment allows targeted assistance schools to use Title I funds for similar purposes (see the Title I side-by-side).

The Senate recedes.

TITLE XII—SCHOOL FACILITIES  
INFRASTRUCTURE

*Findings*

1. Both the House bill and the Senate amendment have a Title relating to school facilities: The House has a loan program called "School Facilities Improvement Act," while the Senate has a grant program called "Education Infrastructure."

The Senate recedes with amendment inserting "infrastructure" after "Facilities."

2. The Senate amendment, but not the House bill, has a short title.

Legislative Counsel.

3. The House bill finds that according to a 1991 survey conducted by the American Association of School Administrators, 74 percent of all public school buildings in the United States need to be replaced.

The Senate recedes.

4. The House bill finds that almost one-third of such buildings were built prior to World War II.

The Senate recedes.

5. The House bill finds that it is estimated that 1 out of every 4 public school buildings in the U.S. is in inadequate condition, and of such buildings, 61 percent need maintenance or major repairs, 43 percent are obsolete, 42 percent contain environmental hazards, 25 percent are overcrowded, and 13 percent are structurally unsound.

The Senate recedes.

6. The House bill finds that large numbers of local educational agencies have difficulties securing financing for school facility improvement.

The Senate recedes with amendment adding "school libraries and media centers."

7. The Senate amendment finds that improving the quality of public elementary and secondary school libraries, media centers, and facilities will help our Nation meet the National Education Goals.

The House recedes with amendment striking "libraries, media centers and facilities" and adding an "s" on the end of "school."

8. The Senate amendment finds that Federal, State and local funding for the repair, renovation, alteration, and construction of public elementary and secondary school libraries, media centers, and facilities has not adequately reflected need.

The House recedes with amendment striking libraries, media centers and facilities and adding an "s" on the end of "school."

9. The Senate amendment finds that the challenge facing our Nation's public elementary and secondary schools require the concerted and collaborative efforts of all levels of government and all sectors of the community.

The House recedes.

*Purpose*

10. The purpose in the House bill is to leverage limited federal funds to enable LEAs to finance the costs of improving school facilities. The purpose in the Senate amendment is to help our nation meet the National Education Goals through the repair, renovation, alteration, and construction of public school libraries, media centers, and facilities used for academic or vocational instruction.

The House recedes with an amendment striking "through the repair . . ." through the end of the paragraph, ending with the word "instruction", and replacing it with language from the House provision, such that the paragraph now reads:

"It is the purpose of this title to help our Nation meet the National Education Goals through the provision of federal funds to enable local educational agencies to meet the costs associated with the improvement of schools within their jurisdiction."

11. The House authorizes a loan program for construction, reconstruction, or renovation of schools; the Senate authorizes a grant program for the activities described in section 15008 of the Senate amendment.

The House recedes.

*Reservation of Funds for Indian Schools*

12. The Senate amendment, but not the House bill, allows the Secretary to reserve not more than 1% of the appropriations for Indian schools.

The House recedes.

*Eligible LEAs and Criteria*

13. Under the House bill, an LEA is eligible if it is eligible for a Concentration Grant under section 1124A of the House bill. Under the Senate amendment, an LEA is eligible if at least 15 percent of its children are poor if at least 90 percent of its property is owned by the Federal Government (as defined under the Impact Aid provisions of the Senate amendment). To be eligible under the Senate amendment, an LEA must also demonstrate urgent need.

The House recedes.

14. The House bill, but not the Senate amendment, has a provision stating that the Secretary may provide assistance for construction only if it will be undertaken in an economical manner.

The House recedes.

15. The Senate amendment further defines an eligible LEA as one which demonstrates in the application submitted under section 15006 that such agency has urgent repair, renovation, alteration and construction needs for its public elementary or secondary school libraries, media centers, and facilities used for academic or vocational instruction.

The House recedes with amendment striking libraries, media centers, and facilities and adding an "s" after "school."

16. The Senate amendment, but not the House bill, classifies eligible LEAs into 6 award categories based on district enrollment.

The House recedes.

*Priorities/Criteria*

Note 17. The House bill lists priorities for approving loans. The Senate amendment lists criteria for awarding grants.

The House recedes with an amendment changing "including" to "such as" and moving (2), (3) and (4) to the Senate list under "(a) Criteria", so that the criteria list includes the following:

1. High numbers or percentages of poor children;
2. school district's lack of fiscal capacity;
3. the threat that the condition of facilities poses to safety of students;
4. demonstrated needed construction;
5. the age of the facility to be renovated or replaced; and
6. other criteria the Secretary determines to be necessary.

Note 18. The Senate amendment lists a criteria for allocating funds among the six categories of LEAs: 1) relative numbers or percentages of poor children, and 2) relative costs of carrying out activities under this title.

The House recedes with amendment adding after "among" the words "each of" and striking the word "category" and changing it to "categories"; striking the words "after considering such factors as" and inserting "including" after the word "appropriate," so that the section reads:

"(2) ALLOCATION AMONG CATEGORIES—The Secretary shall allocate funds under this title among each of the categories described in paragraph (1) on such basis as the Secretary determines is appropriate, including:

(A) The relative numbers or percentages of students counted under section 1123(c)(1); and

(B) the relative costs of carrying out activities under this title in eligible local educational agencies in each such category."

*Loans/Grants—On Hold*

19. The House bill allows the Secretary to determine the maximum loan amount for each recipient based on the total development cost of the facility. The Senate amendment requires that the Secretary determine a maximum grant amount for each category of LEAs.

The House recedes.

20. Under the House bill, the Secretary may, within certain guidelines, determine repayment periods and terms for each loan.

The House recedes.

21. The House bill, but not the Senate amendment, has a section called "General Provisions" regarding the Secretary's budget and accounting procedures, use of funds, and legal powers for the loan program.

The House recedes.

22. Budget and Accounting: The Secretary must prepare a budget and maintain accounts which shall be audited by the Comptroller General.

The House recedes.

23. Use of Funds: Funds shall be deposited in a checking account with the Treasurer of the United States. Congress may authorize funds for the Secretary's administrative expenses.

The House recedes.

24. Legal Powers: The Secretary may prescribe rules and regulations, sue and be sued, foreclose property or take action to enforce rights, dispose of acquired property, sell or exchange property and securities, obtain insurance, and include necessary conditions in contracts made under this part.

The House recedes.

25. The House bill, but not the Senate amendment, says that section 3709 of the Revised Statutes shall not apply to contracts for under \$1,000 for services or supplies under this part.

The House recedes.

26. The House bill, but not the Senate amendment, provides that the Government Corporation Control Act shall apply to the Secretary's activities under this part.

The House recedes.

27. Both bills require that laborers and mechanics be paid in accordance with the Davis-Bacon Act, but the provisions are drafted differently.

Legislative Council.

28. The House bill, but not the Senate amendment, also has a provision requiring overtime pay.

The House recedes.

29. The House bill, but not the Senate amendment, allows the Secretary waive the Davis-Bacon and overtime provisions if laborers or mechanics voluntarily donate their services and the resulting savings are credited to the educational institution undertaking construction.

The House recedes.

30. The House bill prohibits an LEA from receiving more than one loan in a five-year period unless the second loan is used for a facility damaged by a natural disaster. The Senate amendment prohibits an LEA from receiving more than one grant in a five-year period.

The House recedes.

31. The House bill prohibits more than 12.5% of the total loan funds from going to any one state in any given year.

The House recedes.

#### Definitions

32. Both bills have definition sections, but the House bill defines the term "school," while the Senate amendment defines the following terms: alteration, construction, renovation, and repair.

33. The Senate recedes with amendment adding "public" before "structures" and before "elementary and secondary school students," and adding "media centers" after the word "libraries."

34. The Senate amendment includes a definition of the term "alteration."

The Senate recedes.

35. The Senate amendment includes a definition of the term "construction."

The House recedes with an amendment such that the definition reads:

"The term construction means the alteration or renovation of a building, structure, or facility, including the concurrent installation of equipment, including the complete or partial replacement of an existing facility, but only if such replacement is less expensive and more cost-effective than alteration, renovation, or repair of the facility."

36. The Senate defines the term "renovation."

The Senate recedes.

37. The Senate defines the term "repair."

The Senate recedes.

#### Applications

38. The Senate amendment, but not the House bill, requires an application from LEAs that desire to receive a grant. The application must contain:

(a) an assurance that the application was developed in consultation with parents and teachers.

The House recedes.

(b) a description of repairs to be made, with a priority for each.

The House recedes.

(c) the criteria used by the LEA to determine the type of corrective action necessary to meet the purpose of this title.

The House recedes.

(d) a description of this corrective action. The House recedes with amendment changing "corrective action" to "improvement."

(e) a cost estimate of this corrective action.

The House recedes with amendment changing the term "corrective action" to "improvement."

(f) an identification of other resources, including bonding capacity, that are available to carry out activities funded under this title.

The House recedes with amendment changing "including" to "such as."

(g) a description of how activities funded under this title will support energy conservation.

The House recedes.

(h) other information the Secretary requires.

The House recedes.

39. The Senate amendment, but not the House bill, has a provision saying that the

Secretary shall only award grants if sufficient funds will be provided (from this title or other sources) to carry out the activities for which assistance is sought.

The House recedes with amendment replacing "including" with "such as" and adding after "issuance of bonds" the phrase "or savings generated from performance contracting".

#### Authorized Activities

40. The Senate amendment, but not the House bill, has a separate section listing authorized activities, both general and particular.

The House recedes.

41. The House bill (in section 11003) listed the authorized activities as "construction, reconstruction, or renovation" (these terms are not defined). The Senate amendment lists the authorized activities as ensuring the health and safety of students through repair, renovation, alteration, and construction (these terms are defined in section 15004 of the Senate amendment) and accommodating new instructional technology.

The House recedes with amendment striking "(2) upgrade or alter such library, center or facility in order to accommodate new instructional technology." This amendment reflects the conferees' intent that funds awarded under this title are not to be authorized for the accommodation of new instructional technology.

#### Definition of Facilities

42. The House bill allows authorized activities to take place in schools and defines schools (in section 11005; see note 23) as "structures suitable for use as classrooms, laboratories, libraries, and related facilities, the primary purpose of which is the instruction of elementary and secondary school students." The Senate amendment allows authorized activities to take place in "a public elementary or secondary school library, media center, or facility, used for academic or vocational instruction."

The House recedes.

#### Permissive Activities

43. The Senate amendment, but not the House bill, list several examples of permissive activities under this title, including: meeting requirements of the Rehabilitation Act and the Americans with Disabilities Act; the removal or containment of hazardous materials; meeting federal, state, or local codes; replacing an old facility if replacement is more cost-effective than renovation.

The House recedes with an amendment striking (2) concerning the removal or containment of hazardous materials; striking (3) concerning the meeting federal, states, or local codes and (4) relating to the replacement of an old facility if it is more cost-effective. Although these provisions are deleted from the text of the bill, the conferees intend that each eligible local educational agency receiving a grant under this title may use the grant funds for the removal or containment of severely hazardous material such as asbestos, lead, and radon using a cost effective method. The conferees also intend that such funds may be used to meet Federal, State or local codes related to fire, air, light, noise, waste disposal, building height, or other codes passed since the initial construction of such school library, media center or facility, and to replace an old such school library, media center or facility that is more cost-effective to tear down than to renovate.

#### General

44. The Senate amendment, but not the House bill, includes a maintenance of effort provision.

The House recedes with cross-referencing language to maintenance of effort in Title X—General Provisions.

45. The Senate amendment, but not the House bill, provides that an eligible LEA shall use funds received under this title only to supplement, not supplant funds from non-Federal sources.

The House recedes with cross-referencing language to Title X—General Provisions.

46. The Senate amendment, but not the House bill, includes limitations regarding acquisition of real property, maintenance costs, environmental safeguards, and athletic facilities.

The House recedes.

47. The Senate amendment, but not the House bill, requires that the Secretary reserve not more than 1% of the appropriations to collect data, conduct studies and evaluations, and report of Congress on activities supported under this title.

The Senate recedes.

48. The House bill authorized \$200 million for FY 1995 and such sums for each of the 4 succeeding fiscal years; the Senate amendment authorizes \$400 million for FY 1995 and such sums for each of the 4 succeeding fiscal years.

The Senate recedes.

#### TITLE XIII

##### Support and Assistance for ESEA Programs

1. The Senate amendment, but not the House bill, organizes the part into three subparts and entitles the first one "Subpart 1 Comprehensive Regional Centers" before the findings section.

The House recedes with an amendment to begin subpart 1 after the findings and purpose.

#### Findings

2. Technical difference. (The Senate amendment, but not the House bill, adds the word "assisted" after "programs.")

The House recedes.

3. The House bill, but not the Senate amendment, includes "effective program dissemination" as an essential ingredient to the implementation of this Act.

The Senate recedes.

4. Technical difference. (The House bill refers to the "strategy of the reauthorization of this Act" while the Senate amendment refers to "the strategy of the Improving America's Schools Act of 1994.")

Legislative counsel.

5. The House bill refers to "challenging State performance standards and challenging State student performance standards."

The House recedes.

6. The House bill, but not the Senate amendment, lists "tribes" among agencies delivering educational services.

The Senate recedes.

7. In listing types of students with special needs, the Senate amendment but not the House bill, lists "Students with disabilities".

The House recedes.

8. The House bill refers to "challenging State standards" while the Senate amendment uses the term "challenging State content standards and challenging State student performance standards."

The House recedes.

9. The House bill finding describes "technical assistance and dissemination efforts" as fragmented while the Senate amendments includes only "technical assistance efforts."

The Senate recedes.

10. The House bill, but not the Senate amendment, includes "tribes."

The Senate recedes.

11. The House bill uses the term "to reach challenging State student standards" while

the Senate amendment uses "to meet challenging State content standards and challenging State student performance standards."

The House recedes.

12. The House bill refers to "as they implement" while the Senate amendment refers to "as such schools and systems implement."

Legislative counsel.

13. The House bill states that comprehensive technical assistance "would provide coordinated assistance" while the Senate amendment states that it "will provide one-stop shopping."

The Senate recedes.

14. The House bill, but not the Senate amendment, includes tribes as a recipient of technical assistance.

The Senate recedes.

15. The House bill but not the Senate amendment, includes tribes as a recipient of technical recedes.

The Senate recedes.

16. The Senate amendment, but not the House bill, includes "pupil services" as an entity to receive technical assistance.

The Senate recedes.

17. The House bill, but not the Senate amendment, includes State Literacy Resource Centers and vocational resource centers among the explicitly named entities with which the assistance providers supported under this part should coordinate.

The Senate recedes.

18. The House bill, but not the Senate amendment, includes a finding on prioritizing assistance to LEAs and schools.

The Senate recedes.

19. The House bill, but not the Senate amendment, includes a finding on the need to both encourage program integration and maintain services for special needs students, such as limited English proficiency students.

The House recedes.

#### Purpose

20. The House bill, but not the Senate amendment, states that a purpose of this part is to "create a national technical assistance and dissemination system."

The Senate recedes.

21. The House bill, but not the Senate amendment, includes "tribes" among the list of explicitly named recipients of technical assistance.

The Senate recedes.

22. The Senate amendment, but not the House bill, includes "administering" programs as part of the purpose.

The House recedes.

23. In the House bill, the purpose of this part includes implementing programs "in a manner that improves teaching and learning for all students" while the Senate amendment includes a separate purpose of providing technical assistance in "implementing school reform programs."

The House recedes with an amendment to merge the House and Senate provisions.

24. The House bill states "those programs" while the Senate amendment states "such programs."

The House recedes.

25. The House bill, but not the Senate amendment, includes "plans" along with activities as part of what must be coordinated with other entities.

The Senate recedes.

26. The House bill uses the term "challenging State performance standards" while the Senate amendment uses "challenging State content standards and challenging State student performance standards."

The House recedes.

27. The House bill, but not the Senate amendment, lists specifically "students at

risk of educational failure" as those who need assistance in meeting high standards.

The Senate recedes.

28. The House bill, but not the Senate amendment, includes a separate purpose of adopting, adapting, and implementing promising and proven practices for improving teaching and learning.

The Senate recedes.

#### Programs Authorized

29. The House bill, but not the Senate amendment, authorizes more than one program in this section.

The House recedes.

30. The House bill refers to "Comprehensive Assistance Centers" whereas the Senate amendment refers to "Comprehensive Regional Centers."

The House recedes with an amendment to make the name "Comprehensive Regional Assistance Centers".

31. The Senate amendment, but not the House bill, includes the provision "Notwithstanding section 6205" which maintains separate, categorical Indian technical assistance centers.

The Senate recedes with an amendment to add:

"(b) SERVICE TO INDIANS AND ALASKA NATIVES—The Secretary shall ensure that each regional center that serves a region with a significant population of Indian or Alaska Native students shall—

(1) be awarded to a consortium which includes a tribally-controlled community college or other Indian organization; and

(2) assist in the development and implementation of instructional strategies, methods and materials which address the specific cultural and other needs of Indian or Alaska Native students;"

32. The House bill authorizes the Secretary to "award grants or enter into contracts" with technical assistance entities. The Senate amendment authorizes the Secretary to carry out this part directly or through grants, contracts or cooperative agreements.

The House recedes.

33. In the House bill, eligible entities for such grants or contracts are "public or private nonprofit entities or consortia." In the Senate amendment, they are "public or private agencies or organizations or consortia of such agencies and organizations."

The Senate recedes.

34. The House bill establishes "a networked system of 15 centers" to be placed by the Secretary while the Senate amendment establishes 11 centers, one center in each of the Departments 10 regions and one at the Pacific Regional Education Laboratory in Honolulu, HI.

The Senate recedes with an amendment adding "including one center in Hawaii. Such centers"

35. The Senate amendment, but not the House bill, authorizes the Secretary to authorize field offices for each of the centers.

The Senate recedes.

36. Technical difference. (The Senate amendment, but not the House bill, uses the phrase "in order to provide.")

Legislative counsel.

37. The House bill, but not the Senate amendment, includes "research-based training" as an activity to be provided.

The House recedes.

38. The House bill, but not the Senate amendment, includes "tribes" and "community-based organizations" as entities to receive technical assistance.

The Senate recedes.

39. Technical difference. (The House bill refers to "their administration while the Sen-

ate amendment refers to "the administration.")

Legislative counsel.

40. The House bill states "in establishing centers and allocating resources" while the Senate amendment states "in allocating resources."

The Senate recedes.

41. Both the House bill and Senate bill require the Secretary to consider the geographic distribution of special needs students when allocating resources to centers however the House lists explicitly several types of special needs students as well as the needs of areas in geographic isolation.

The Senate recedes with an amendment adding "and urban" after "rural."

42. The House bill authorizes the National Diffusion Network and state-based technical assistance as a subsection of this section while the Senate authorizes it as a separate sub-part. (See note #609)

The House recedes with an amendment to merge the House and Senate language authorizing the National Diffusion Network as follows: "In order to implement the purposes of this part, the Secretary shall carry out a State-based outreach, consultation, training and dissemination program through the National Diffusion Network and its State Facilitators. To carry out such program, the Secretary shall make awards in each State and territory and in the Bureau of Indian Affairs in order to assist state and local educational agencies, schools, and other appropriate educational entities to identify and secure appropriate, high-quality technical assistance from the comprehensive assistance centers and other sources and to identify and implement exemplary or promising educational programs and practices. The Secretary shall carry out this subpart through grants to or contracts with public or private nonprofit organizations or institutions with demonstrated expertise in the areas of applied education research and program dissemination."

43. Regarding the National Diffusion Network (NDN) state-based programs, the House bill authorizes the Secretary to award grants or enter into contracts in each State, territory, and the Bureau of Indian Affairs whereas the Senate amendment requires the Secretary to make "one or more awards in each State" to establish state-based technical assistance entities.

The Senate recedes.

44. The Senate amendment, but not the House bill, establishes NDN in order to increase the effectiveness of the comprehensive centers.

The Senate recedes.

45. In the House bill, the eligible entities for the NDN awards are public and private nonprofit entities. In the Senate amendment, eligible entities for NDN awards are "public educational agencies or public or private nonprofit educational organizations or institutions."

The Senate recedes.

46. The House bill, but not the Senate amendment, explicitly identifies this state-based program as the National Diffusion Network.

The Senate recedes.

47. The House bill (in section 2347), but not the Senate amendment, includes "training" in addition to "outreach, consultation, and dissemination" as part of the state-based program.

The Senate recedes.

48. The House bill define the NDN role as helping education providers in identifying and securing high quality technical assistance for as well as information on and assistance in adopting effective programs and

practices and working with the comprehensive assistance centers to provide these services. The Senate amendment identifies the NDN role only as assisting education providers to identify and implement exemplary or promising educational programs and practices.

The Senate recedes.

49. The House bill, but not the Senate amendment, includes a number of accountability measures including providing for an external peer review system, surveys, and performance measures.

The Senate recedes with amendments to strike the peer review provisions and the annual report provision and to require that the surveys be conducted of eligible recipients of services rather than simply of users of services.

50. Both the House bill and the Senate amendment provide for an evaluation. The House bill authorizes an "independent evaluation of the comprehensive centers and the NDN" while the Senate amendment authorizes an evaluation of all the activities assisted under this part.

The House recedes and the Senate recedes striking the evaluation provisions.

51. The House bill requires the evaluation to be reported to Congress prior to the next reauthorization of ESEA, while the Senate amendment requires it be reported to the President and Congress by January 1, 1998.

The House recedes and the Senate recedes.

52. The House bill, but not the Senate amendment, specifies that all funds under this section will be awarded for five-year periods.

The Senate recedes with an amendment striking the extension of contracts provision.

#### *Requirements of Comprehensive Assistance Centers*

53. The House bill section is entitled "Requirements of Comprehensive Assistance Centers" while the Senate amendment section is entitled "Comprehensive Regional Centers."

The Senate recedes with an amendment to merge the House requirements and duties of the centers and the Senate list of duties of the centers as follows:

"(b) SUPPORT AND ASSISTANCE.—Comprehensive regional assistance centers shall maintain appropriate staff expertise and shall provide support, training and assistance to State educational agencies, tribal divisions of education, local educational agencies, schools and other grant recipients under this Act in—

(1) improving the quality of instruction, curricula and assessments supported with funds under Title I of this Act;

(2) implementing effective schoolwide programs under Title I of this Act;

(3) meeting the needs of children served under this Act, including children in high-poverty areas, migratory children, immigrant children, children with limited English proficiency, neglected or delinquent children, homeless children and youth, Indian children, children with disabilities, and, where applicable, Alaska Native and Native Hawaiian children;

(4) implementing high quality professional development activities for teachers and, where appropriate administrators, pupil service personnel, and other staff;

(5) improving the quality of bilingual education, including programs that emphasize English and native language proficiency and promote multicultural understanding;

(6) creating safe and drug-free environments, especially in areas experiencing high

levels of drug use and violence in the community and schools;

(7) implementing educational applications of technology;

(8) coordinating services and programs to meet the needs of students so that they can fully participate in the educational program of the school;

(9) expanding the involving and participation of parents in the education of their children;

(10) reforming schools, school systems and the governance and management of schools;

(11) evaluating programs; and

(12) meeting the special needs of students living in urban and rural areas and the special needs of local educational agencies serving urban and rural areas.

54. The House refers to each center as a "comprehensive assistance" while the Senate refers to each "comprehensive regional center."

The House recedes with an amendment to name the centers "comprehensive regional assistance centers".

55. The Senate amendment includes "shall" in the introduction to the paragraphs. The House bill includes "shall" at the beginning of each paragraph.

Legislative counsel.

56. The House bill, but not the Senate amendment, specifies that staff at the centers maintain expertise in "assessment."

The Senate recedes.

57. The House bill specifies that staff at the centers must maintain expertise in of "title I of the Act" while the Senate amendment states only "title I."

The Senate recedes.

58. The House bill, but not the Senate amendment, includes "immigrant children" in the types of children to be served.

The Senate recedes.

59. In listing the types of children whose needs should be served by the centers, the House bill, but not the Senate amendment, includes "where applicable, Alaskan Native children and Native Hawaiian children."

The Senate recedes.

60. In listing areas of professional development expertise, the Senate amendment, but not the House bill, includes "pupil services personnel."

The House recedes.

61. The House bill uses the term "challenging State performance standards" while the Senate amendment uses "challenging State content standards and challenging State student performance standards."

The House recedes and the Senate recedes.

62. The House bill, but not the Senate amendment, includes "coordination of services" in the list of areas of expertise to be maintained by the centers.

The Senate recedes.

63. The House bill, but not the Senate amendment, includes "school governance and management" in the list of areas of expertise to be maintained by the centers.

The Senate recedes.

64. The House bill, but not the Senate amendment, includes "partnerships between the public and private sector" in the list of areas of expertise to be maintained by the centers.

The House recedes.

65. The House bill includes a separate paragraph requiring that the centers "shall ensure, where appropriate" staff expertise in the needs of rural students and LEAs and includes "in" before "the special needs of LEAs." The Senate bill lists the needs of rural students and LEAs as a subparagraph of the paragraph outlining expertise to be maintained by each center.

The House recedes.

66. The Senate amendment, but not the House bill, uses "assisted" under this Act.

Legislative counsel.

67. The House bill, but not the Senate amendment, requires that the centers reflect the "diverse linguistic and cultural expertise appropriate to the region served."

The House recedes.

68. The Senate amendment, but not the House bill, requires that the centers work collaboratively with the Departments' regional offices.

The House recedes.

69. The House bill requires the centers to "coordinate services, work cooperatively, and regularly share information with" other technical assistance providers. The Senate amendment requires the centers to "work collaboratively, and coordinates the services such centers provide with" other technical assistance providers.

The Senate recedes.

70. The House bill requires that the centers work with virtually all technical assistance providers funded by the Department of Education (and lists many of them) while the Senate amendment specifies that they work with the regional laboratories and NDN.

The Senate recedes.

71. The House bill, but not the Senate amendment, lists as the purposes of this "to provide a broad range of services to schools in the region while minimizing the duplication of such services."

The Senate recedes.

72. The Senate amendment, but not the House bill, requires that the centers consult with "representatives of State educational agencies, local educational agencies, and populations served under this Act."

The House recedes.

73. The House bill states that centers will work with or through NDN State Facilitators to provide services to SEAs, LEAs, tribes and schools and to provide the support that NDN agents need to carry out their mission. The Senate amendment requires the centers to provide information on exemplary and promising practices.

The Senate recedes.

74. The House bill, but not the Senate amendment, has a number of provisions specifying the duties of the comprehensive centers. These duties include providing the following assistance in the following areas to SEAs, LEAs, tribal divisions of education, schools and others: development of plans; development and use of curricula; development and use of instructional strategies and materials; development of non-discriminatory assessments; development and implementation of school-wide projects; professional development; parental involvement; creating safe and drug-free schools; coordination of services; evaluation of school programs; uses of technology; school governance; and establishing public/private partnerships.

Additional duties includes working with the NDN State Facilitators to disseminate promising programs, policies, and practices and working with States to establish school support teams for schoolwide projects.

The House recedes with an amendment to add the last duty in this section to the merged list of responsibilities for the centers.

75. The House bill, but not the Senate amendment, provides for maintaining at least current service levels for assistance to bilingual, migrant, immigrant, and Indian students.

The Senate recedes with an amendment adding "educationally disadvantaged students, including students in urban and rural

areas" to those for whom services must be maintained.

76. The House bill, but not the Senate amendment, provides for maintaining the current ratio of technical assistance funds devoted to limited-English proficient, immigrant, and migrant relative to the whole of technical assistance funds.

The House recedes.

77. The House bill, but not the Senate amendment, provides for maintaining the current ratio of technical assistance funds devoted to Indian students relative to the whole of technical assistance funds.

The House recedes.

78. The House bill, but not the Senate amendment, requires that applications for grants or contracts for technical assistance centers include provisions concerning expertise, outreach, support from area served, how they will allocate services and how they will utilize technology to provide services.

The Senate recedes with an amendment to place this in subpart 1 and an amendment to strike the provision on technology.

79. The House bill, but not the Senate amendment, requires the Secretary to give priority to consortia including Indians when approving applications for centers serving Indians.

The House recedes.

80. Regarding transition activities, the House bill extends current technical assistance center and NDN contracts through fiscal year 1995. The Senate amendment requires the Secretary to use funds from this part "for at least fiscal years 1995 and 1996" for transition efforts. The Secretary shall use these funds to "draw on the expertise of staff and services from existing categorical assistance centers" and, where appropriate, to extend grants or awards to "ensure that services will not be interrupted. . ."

The Senate recedes with an amendment to extend the transition period through FY96 and add Senate language on drawing on the expertise of the current categorical centers.

81. The House bill includes a section on the purpose and duties of NDN while the Senate includes a separate subpart on NDN. See note #570.

The House recedes.

82. The House bill, but not the Senate amendment, includes "training" as part of this state-based program. See note #575.

Delete note.

83. The House bill authorizes OERI "to award grants or enter into contracts" for NDN State Facilitators. The Senate amendment requires that the OERI Office of Reform Assistance and Dissemination administer the NDN State Facilitators program.

The Senate recedes with an amendment to merge the House and Senate provisions on administration of NDN as follows:

ADMINISTRATION.—The National Diffusion Network State Facilitators programs shall be administered by the Office of Reform Assistance and Dissemination established under section 941(b) of the Educational Research, Development, Dissemination, and Improvement Act of 1994. Such office shall award grants or enter into contracts in each State with public or private nonprofit educational organizations or institution with demonstrated experience and expertise in the areas of implementation of education programs and program dissemination to carry out activities described in section . . .

84. The House bill's provisions under "National Diffusion Network State Facilitators" (subsection c) are similar to the Senate amendment's Coordination provisions (paragraph 1) except that the Senate amendment,

but not the House bill, includes "close" before "coordination" and it includes "and coordinate their activities."

The House recedes.

85. The House bill, but not the Senate amendment, lists the recipients of technical assistance.

The Senate recedes with an amendment to write the introduction to the State Facilitator duties as follows:

STATE FACILITATOR ACTIVITIES.—The National Diffusion Network State Facilitators for each State shall provide professional development and technical assistance services to assist State educational agencies, local educational agencies, tribal divisions of education, schools, and other entities assisted under this Act in—

86. The House states that the duties of the NDN State Facilitators shall be to: help define technical assistance needs and align them with school reform, professional development and technology plans; secure technical assistance services from all Department of Education and other technical assistance providers; identify and address educational technology needs; assist in preparation for intensive on-site technical assistance; assist in the use of technology including the development of regional and national electronic networks; deliver professional development services; and provide organizational development services.

The Senate amendment defines the State Facilitator duties as: identifying programs and practices for dissemination; identifying technical assistance needs, including those for technology; providing professional development services; identifying programs for dissemination; promoting and facilitating teacher networks throughout the State; and conducting outreach.

The Senate recedes with an amendment to combine the House and Senate list of activities as follows: defining technical assistance needs and aligning them with title 1, school reform, professional development, and technology plans and activities; securing the technical assistance and professional development services that can best fulfill such needs by utilizing the services of the comprehensive regional assistance centers, the regional education laboratories, the Eisenhower Math-Science regional consortia, State Literacy Resource Centers, and other technical assistance providers including local providers of professional development services; identifying educational technology needs and securing the necessary technical assistance to address them in coordination with the Eisenhower regional consortia; utilizing technology, including regional and national electronic networks, to increase their access to technical assistance, professional development services, and dissemination of effective programs and promising practices.

87. The House bill, not the Senate amendment, lists additional duties for NDN State Facilitators which include: sharing promising practices; working with school support teams; distinguished educators and the comprehensive centers; and conducting outreach.

The Senate recedes with an amendment to strike the House (2), (3), (4), and (6) and add the Senate's (1), (4), and (5) from note #614 to the Additional Duties provisions.

88. The House bill titles this subsection "National Diffusion Network Effective Practices" while the Senate amendment titles it "National Diffusion Network Effective Programs and Promising Practices System."

The House recedes.

89. Technical difference. (The House bill refers to "such programs" while the Senate amendment refers to "such system.")

Legislative Counsel.

90. Technical difference. (The House bill refers to the "Department of Education" while the Senate amendment refers to the "Department.")

Legislative counsel.

91. The House bill states "such a system should" while the Senate amendment states "such a system shall."

The House recedes.

92. Technical difference. (The House bill and Senate amendment refer to the "Office of Reform Assistance and Dissemination" differently.)

Legislative counsel.

93. The House bill refers to "a grants program to such validated Effective Practices"; the Senate amendment refers to "a grant program" and to "regarding such systems."

Legislative counsel.

94. The House bill, but not the Senate amendment, gives service priority to schoolwide projects and to the poorest LEAS and BIA schools.

The Senate recedes.

95. Technical difference. (The House bill, but not the Senate amendment, includes "also" before "authorized.")

The House recedes.

96. The Senate amendment, but not the House bill, lists "community-based organizations" as an entity to which technology-based technical assistance will be accessible.

The House recedes on keeping this provision a separate section paid for by funds other than those authorized in this title.

97. The House bill, but not the Senate amendment, states that the program under this part will be administered jointly by three offices in the Department of Education.

The House recedes.

98. The House bill authorizes the entire part at \$70 million for 1995 with not less than \$25 million of that amount to be for the NDN and such sums through 1999 while the Senate amendment authorizes \$70 million in 1995 and such sums through 1999 for the comprehensive centers and \$25 million in 1995 and such sums through 1999 for NDN.

The House recedes with an amendment to change subpart to part.

99. The House bill authorizes funds in this section for the entire part while the Senate amendment authorizes funds for each subpart at the end of each subpart.

The House recedes.

#### Program Established

100. The Senate amendment, but not the House bill, reauthorizes the Eisenhower Regional Math and Science Education Consortia as a subpart of this part. The Secretary, in consultation with the Director of the National Science Foundation, is authorized to award grants or contracts for such consortia for the purpose of disseminating math and science materials and providing technical assistance. One consortium shall be in each regional education laboratory region. Grants or contracts shall be for not more than five years.

The House recedes.

#### Use of Funds

101. The Senate amendment, but not the House bill, authorizes funds to: work with the Eisenhower Clearinghouse; assisting and providing technical assistance in the use of math and science materials; provide training in math and science instruction; provide financial assistance so that educators may attend consortium activities; implement programs and activities for groups underrepresented in and underserved by math and

science education; help SEAs and LEAs assess science equipment needs and the need for math and science academies; develop and disseminate early childhood math and science instructional materials; disseminate information on informal math and science activities in the region; collect data for the purpose of evaluating the work of the consortia; identify exemplary practices and materials within the region and report it to the Eisenhower Clearinghouse; communicate with other entities delivering services to students and teachers of mathematics; assist with State and regional plans for systemic reform in math and science; and increase the use of informal educational entities.

The House recedes.

#### Application and Review

102. In the Senate amendment, but not the House bill, applications must demonstrate: expertise in math and science education; the ability to implement and disseminate math and science materials, teaching methods, and assessment tools; the ability to carry out the functions of the regional consortium; an emphasis on meeting the needs of those underrepresented in and underserved by math and science education; that the business community will play an integral in the consortium's work; that the entity will consider Star School resources in carrying out this subpart; an assurance that activities will be conducted in compliance with copyright laws.

The House recedes.

103. In the Senate amendment, but not the House bill, the Secretary must develop procedures and criteria to ensure that grants or contracts are awarded based on merit through a peer review process consisting of national panels appointed by the Secretary.

The House recedes.

104. In the Senate amendment, but not the House bill, each entity receiving a grant or award shall establish a broadly representative regional board to oversee the administration and program priorities of the consortia. No federal funds may be used for this board except for travel or accommodations for board members who could not otherwise participate.

The House recedes.

#### Payments; Federal Share; Non-Federal Share

105. In the Senate amendment, but not the House bill, the federal share in funding the activities of the consortia shall be 80%. The remaining 20% may be cash or in-kind contributions and at least 10% of the non-federal share must come from non-governmental sources.

The House recedes.

#### Evaluation

106. In the Senate amendment, but not the House bill, the Secretary, through OERI, shall collect data on, evaluate, and report on the effectiveness of the consortia by the end of each grant contract period, including an evaluation of how well the consortia meet the needs of the schools, teachers, administrators, and students of their respective regions.

The House recedes.

#### Definitions

107. In the Senate amendment, but not the House bill, this subsection defines several terms including eligible entity, mathematics, science, region, regional consortium, and State agency for higher education.

The House recedes.

#### Authorization of Appropriations

108. The Senate amendment, but not the House bill, authorizes \$23 million for FY 95

and "such sums" for the following four years for this subpart.

The House recedes.

#### TITLE XIV—GENERAL PROVISIONS

##### Title

##### Definitions

The Senate amendment excludes the National Teacher Training Project from the definition of "covered program."

The House recedes.

The Senate amendment excludes from the definition of "covered program" the State and Local Programs for School Technology Resources, Technical Support, and Professional Development.

The House recedes.

The House bill excludes the definition of the targeted assistance program.

The House recedes.

The Senate amendment excludes from the definition of "current expenditures" the expenditures made from funds received under Title XIII.

The Senate recedes.

The House bill defines "educational service agency" to include agencies authorized to "provide services and programs;" the Senate amendment defines "educational service agency" to include agencies authorized to "provide services or programs."

The House recedes.

The House bill defines "elementary school" to mean a "nonprofit institutional day or residential school;" the Senate amendment defines "elementary school" to mean a "day or residential school."

The Senate recedes.

The Senate amendment, but not the House bill, defines "gifted and talented."

The House recedes.

The House bill defines "institution of higher education" to have the meaning given that term in section 1201(a) of the Higher Education Act of 1965; the Senate amendment defines "institution of higher education" to have the meaning given that term in section 1201 of the Higher Education Act of 1965.

The Senate recedes.

The Senate amendment, but not the House bill, defines "interoperable and interoperability."

The Senate recedes.

12. The Senate amendment, but not the House bill, includes in its definition of "local educational agency" a BIA-funded elementary or secondary school to the extent the inclusion makes the school eligible for programs not provided in other provisions of law, except that the school shall not be subject to the jurisdiction of any State educational agency other than the BIA; see section 9104 of the House bill for a related provision.

The House recedes with an amendment to include in the definition of a local educational agency an elementary or secondary school funded by the Bureau of Indian Affairs, but only to the extent that such school is not smaller in student population than the smallest local educational agency eligible for and receiving assistance under this Act.

13. The House bill, but not the Senate amendment, defines "mentoring."

The Senate recedes.

14. The House bill includes Palau in its definition of "outlying areas" but only until the effective date of the Compact of Free Association with the Government of Palau; the Senate amendment includes Palau without the proviso and also includes the Republic of the Marshall Islands and the Federated States of Micronesia.

The House recedes.

15. The Senate amendment, but not the House bill, defines "public telecommunications entity."

The House recedes with an amendment defining the territories as the Virgin Islands Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands and for the purpose of the Competitive Grants section—under Title I of this Act and discretionary grants under this Act, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau. The conferees intend that the Republic of the Marshall Islands, the Federated States of Micronesia and the Republic of Palau are not considered territories under this Act and may only receive funds under the Competitive Grants section—under Title I of this Act and discretionary grant programs under this Act.

16. In addition to technical drafting differences between the House and Senate versions of the definition of "pupil services personnel" and "pupil services," the Senate amendment, but not the House bill, specifies "other necessary services" to include "related services as such term is defined in section 602 of the Individuals with Disabilities Education Act."

The House recedes.

17. The House bill defines "secondary school" to mean a "nonprofit institutional day or residential school;" the Senate amendment defines "secondary school" to mean a "day or residential school." Also includes technical drafting differences.

The Senate recedes.

18. The Senate amendment, but not the House bill, defines "technology."

The House recedes with an amendment adding "and fiber optic transmission, computer, video" after "copper".

#### Applicability of This Title

19. The House bill, but not the Senate amendment, provides that references to section 1471 of this Act prior to enactment of the bill, "shall be deemed to refer to this section."

The Senate recedes with amendment changing "section" to "part."

20. The House bill, but not the Senate amendment, provides that certain consortia of BIA-operated schools shall be given the same consideration as a local educational agency and shall apply through the BIA, which shall apply to the Department of Education on their behalf; see related provision in the Senate amendment's definition of "local educational agency."

The Senate recedes with amendment striking "Such consortia shall apply through the Bureau of Indian Affairs which shall apply to the Department of Education on their behalf."

#### Flexibility in the Use of Administrative and Other Funds

21. The House bill, but not the Senate amendment, provides that a State educational agency may consolidate administrative funds "if such State educational agency can demonstrate that the majority of such agency's resources come from non-Federal sources." Also includes technical drafting differences.

The Senate recedes.

22. The Senate amendment, regarding the applicability of consolidation authority, includes those programs it defines under "covered programs" that are not included in the House bill; see comments 4 through 7. Also includes technical drafting differences.

Legislative counsel.

23. The Senate amendment, but not the House bill, regarding the applicability of

consolidation authority, includes the administrative funds under section 308(c) of the Goals 2000: Educate America Act.

The House recedes.

24. The provision concerning the additional uses of consolidated funds includes technical drafting differences.

Legislative counsel.

25. The provision concerning unused administrative funds includes technical drafting differences.

Legislative counsel.

26. The Senate amendment, but not the House bill, provides that a State educational agency may consolidate funds available to it under title I of the ESEA and title III of Goals 2000 in order to develop State content standards, student performance standards, or assessments.

The House recedes with an amendment striking "State student performance standards" and adding "challenging" before State content standards.

27. The provision concerning single local educational agency States include technical drafting differences.

Legislative counsel.

#### *Consolidation of Funds for Local Administration*

28. The House bill provides for regulations "of the Secretary;" the Senate amendment provides for regulations "issued by the Secretary."

Legislative counsel.

29. The House bill provides for a percentage "established in each covered program;" the Senate amendment provides for a percentage "determined by its State educational agency."

The House recedes.

30. The provision concerning State procedures for fund consolidation includes technical drafting differences.

Legislative counsel.

31. The provision concerning uses of consolidated administrative funds includes technical drafting differences.

Legislative counsel.

#### *Administrative Funds Study*

32. The House bill provides that the Secretary's administrative funds study include the percentage of administrative funds "in all covered programs;" the administrative funds "in all covered programs."

The House recedes with amendment to change section heading to "Administrative Funds Studies"; change the subsection heading to "(a) Federal Funds Study"; move the language on State submission of data on Title I administration activities from the Senate bill (section 1702(d)) to here and make it a new subsection (a)(2) and call it "Title I State Data"; and modify the language from section 1702(d) to change the reference from "this title" to "Title I" and references to "this section" to "section 1702."

33. The House bill, but not the Senate amendment, requires the Secretary to develop a definition of what types of activities constitute the administration of ESEA programs by State and local educational agencies.

The Senate recedes with amendments to merge the House bill paragraphs #2 and #3 concerning results of such study with the Senate paragraph #2 which also deals with results, and change the paragraph number to be #4; and make the language concerning reporting requirements following the words "the Secretary shall" in the House bill a new subparagraph (A).

34. The House bill authorizes the Secretary to issue regulations on the use of adminis-

trative funds; the Senate amendment requires the Secretary to promulgate final regulations on administrative funds within one year of the completion of the administrative funds study.

The House recedes with amendments to make the language following the words "the Secretary shall" in the Senate amendment concerning reporting requirement" a new subparagraph (B); change the reference in the Senate amendment from "paragraph (1)," to "paragraph (a)(1)" and insert after this reference the following: "which may include collection and analysis of the data under paragraph (2) and section 1401(b);" and modify the new subparagraph (B) to add the words "or guidelines" after the words "final regulations."

35. The House bill provides that the administrative funds regulations includes provisions on the limitation of the amount of administrative funds "where such limitation is not otherwise provided by law;" the Senate amendment does not contain this qualifying clause.

The Senate recedes.

36. The provision concerning administrative funds regulations also includes technical drafting differences.

The House recedes with amendments to move the language from subsection (b) to paragraph (a)(3) and change the heading from "Report" to "Federal Funds Report."

37. The Senate amendment, but not the House bill, requires the Secretary to complete the administrative funds study not later than one year after enactment of this bill. The reporting provision also includes technical drafting differences.

The House recedes with amendment striking all after the words "not later than" through 1994" and inserting "July 1997."

38. The House bill authorizes the Department of the Interior to use "up to" 1.5 percent of consolidated funds for administration; the Senate amendment authorizes the Department of the Interior to use "not more than" 1.5 percent of consolidated funds for administration.

Legislative Counsel.

#### *Availability of Unneeded Program Funds*

39. The provision concerning availability of unneeded program funds includes technical drafting differences.

Legislative Counsel.

#### *Coordination of Programs; Consolidated State and Local Applications*

40. The House bill, but not the Senate amendment, authorizes a local educational agency, individual school, or consortium of schools to use a total of up to 5% of ESEA funds to establish and implement a coordinated services project consistent with the requirements of title X (Coordinated Services Projects).

The Senate recedes.

#### *Optional Consolidated State Application*

41. The House bill, regarding optional consolidated State applications, refers to a "State application;" the Senate amendment refers to a "State plan or application." However, both the House and Senate versions provide that a State educational agency shall not be required to submit separate State plans or not be required to submit separate State plans or applications in any program to which consolidation applies. Also includes technical drafting differences.

The House recedes on phrase "plan or application."

42. The House bill, but not the Senate amendment, authorizes a consolidated application also for the Goals 2000: Education

America Act and the School-to-Work Opportunities Act.

The Senate recedes.

43. The House bill, but not the Senate amendment, provides that Secretary shall require such consolidated application materials as are absolutely necessary for the consideration of the State application.

The Senate recedes.

#### *Consolidated Local Applications*

44A. The House bill, regarding consolidated local applications, refers to an "application;" the Senate amendment refers to a "plan or application."

The House recedes with amendments including "Plan or" in title and throughout text.

#### *Other General Assurances*

44B. The House bill, but not the Senate amendment, provides that the Secretary shall require such consolidated application materials as are absolutely necessary for the consideration of the local application.

The Senate recedes with an amendment including "plan" throughout text with "application."

#### *Relationship of State and Local Plans to Plans Under the Goals 2000: Educate America Act*

44C. The Senate amendment, but not the House bill, provides that each State or local plan submitted under certain ESEA programs shall be integrated with each other and with the State plan developed under title III of the goals 2000: Educate America Act. If a State or local plan requirement in these programs is satisfied for that program need not separately address that requirement. State and local plans may be submitted as an amendment to the Goals 2000 plan. Each plan of operation under the Even Start program must be consistent with plans under title III of the Goals 2000: Educate America Act or, if there are no such plans, with the State and local plans under the basic program (part A of title I) of the ESEA.

The House recedes.

#### *Waivers*

45. The Senate amendment, but not the House bill, authorizes the Secretary to waive any requirement of, or regulations under, the General Education Provisions Act.

The Senate recedes. This section allows the Secretary to waive programmatic requirements on State educational agencies, local educational agencies and institutions receiving federal funds under applicable programs, in an effort to more effectively achieve the purposes of this Act. Nothing in this section allows the Secretary to waive requirements or provisions that Congress has placed on the Department of Education, including but not limited to section 432 of GEPA or sections 10602 and 10603 of this Act.

#### *Waivers of Statutory and Regulatory Requirements*

46. The House bill authorizes the Secretary to waive requirements or regulations for a "State educational agency, local educational agency, Indian tribe, or school;" the Senate amendment authorizes the Secretary to waive requirements or regulations for a "State educational agency, local educational agency, Indian tribe, or other agency, organization, or institution."

The Senate recedes with an amendment inserting "through an LEA" after "school."

NOTE: There is a probable error in the House bill. The last "or" preceding section 9401(a)(1) should probably be deleted, thus making the requirements of paragraphs (1) and (2) apply to the entities in the matter preceding paragraph (1).

Legislative Counsel.

47. The Senate amendment, but not the House bill, limits the waiver authority to funds authorized by the ESEA "from the Department."

Legislative Counsel.

48. The House bill, but not the Senate amendment, sets forth the descriptions that must be in a request for waiver.

The Senate recedes with an amendment adding the word "reasonable" such that the provision reads that in the case of a waiver proposal submitted by an SEA, the SEA "(A) provides all interested local educational agencies in the State with notice and a reasonable opportunity to comment on the proposal."

49. The House bill provides that local educational agencies submit waiver requests to State educational agencies which, in turn, submit waiver requests to the Secretary; the Senate amendment provides that waiver requests submitted by a local educational agency or other agency, institution, or organization receiving ESEA funds from a State educational agency and is accompanied by any comments of the State educational agency.

The House recedes with an amendment striking "or other agency, institution, or organization" such that the provision reads "in the case of a waiver proposal submitted by a local educational agency that receives funds under this Act from a State educational agency—"

50. The House bill, but not the Senate amendment, provides that waiver requests from Indian tribes shall be submitted to the Secretary.

The Senate recedes.

51. The House bill requires a State educational agency, local educational agency, or Indian tribe requesting waivers to provide notice and information to the public. The Senate amendment, in addition to requiring notice and information to the public by a State educational agency, local educational agency or other agency, institution, or organization, requires a State educational agency to (1) provide notice to all interested local educational agencies and an opportunity for them to comment, and to (2) submit any comments to the Secretary.

The House recedes with amendments providing that the opportunity to comment be "reasonable."

52. The House bill, but not the Senate amendment, prohibits waivers relating to the allocation of funds, Federal non-supplanting requirements, elements of a charter school, and prohibitions regarding State aid (section 9502) and use of funds for religious worship (section 9507).

The Senate recedes.

53. The Senate amendment, but not the House bill, prohibits waivers relating to the distribution of funds to States or to local educational agencies or other recipients of funds under the ESEA, applicable civil rights requirements, or requirements of section 438 and 439 of the General Education Provisions Act.

The House recedes.

54. The House bill prohibits waivers regarding the equitable participation of private school students and teachers; the Senate amendment prohibits waivers regarding the equitable participation of students attending private schools.

The Senate recedes.

#### Waiver Period

55. The House bill provides that the waiver period not exceed 3 years; the Senate amendment provides that the waiver period not exceed 4 years.

The Senate recedes.

56. The House bill provides for extension of the waiver period if the Secretary determines that the waiver has increased the quality of instruction or the academic performance of students; the Senate amendment provides for extension if the Secretary determines that the waiver has been effective in enabling recipients to carry out activities for which the waiver was requested, the waiver contributed to improved performance, and extension would be in the public interest.

The House recedes.

57. The House bill requires the Secretary to terminate a waiver if the Secretary determines that the waiver hasn't increased the quality of instruction, or improved students' academic performance, or is no longer needed to achieve the objectives of the recipients' performance or if the Senate amendment requires termination if the Secretary determines that a recipient's performance has been inadequate or if the waiver is no longer needed to achieve its original purposes.

The House recedes.

58. The House bill, but not the Senate amendment, sets forth reporting requirements from the local education agency to the State educational agency, from the State educational agency or Indian tribe to the Secretary, and from the Secretary to the Congress.

The Senate recedes with an amendment striking the word "annually" before "shall submit" and paragraph (A) which reads "summarizing the uses of waivers by State educational agencies, local educational agencies, Indian tribes, and schools; and" such that the relevant provision reads:

"(4) The Secretary, at the end of the second year and every year thereafter, shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report including whatever information the Secretary determines to be necessary."

59. The Senate amendment, but not the House bill, requires that notice of the Secretary's decision to grant a waiver be published in the Federal Register and requires the Secretary to disseminate the notice to interested parties.

The House recedes.

#### Prohibition Regarding State Aid

60. The House bill provides that no State "may" take ESEA funding into consideration in determining a local educational agency's eligibility to receive State aid; the Senate amendment provides that no State "shall" do so.

The House recedes.

61. The House bill, but not the Senate amendment, exempts impact aid funding from the prohibition regarding State aid.

The Senate recedes.

#### Participation by Private School Children and Teachers

62. The House bill refers to services for the "teachers or other educational personnel" in private schools; the Senate amendment refers to services for the "teacher, administrators, and other staff" in these schools. Also includes technical drafting differences.

The Senate recedes.

63. The House bill, but not the Senate amendment includes in the provisions regarding the applicability of programs for participation by private school children and teachers the library media program.

The Senate recedes.

64. The Senate amendment, but not the House bill, includes in the provisions regard-

ing the applicability of programs for participation by private school children and teachers the Star Schools program, the elementary mathematics and science equipment program, and the targeted assistance program.

The House recedes leaving open the question of science and math equipment program.

65. The Senate amendment, but not the House bill, requires the educational agency or consortium to conduct a timely consultation with private school officials on ESEA programs.

The House recedes.

#### Standards for By-Pass

66. The House bill refers to by-pass standards for "a State, local or intermediate educational agency or consortium," the Senate amendment refers to by-pass standards for "a State, local or intermediate educational agency or consortium of such agencies."

Legislative Counsel.

67. The provision concerning petition for review from the by-pass determination includes technical drafting differences.

Legislative Counsel.

68. The provision concerning prior determination for by-pass includes technical drafting difference.

The House recedes with an amendment adding that the provision shall not apply with respect to civil rights laws.

#### General Provisions Regarding Nonrecipient Nonpublic Schools

69. The general provision regarding non-recipient nonpublic schools includes technical drafting differences.

Legislative Counsel

70. The House bill, but not the Senate amendment, sets forth provisions to comply with the Buy America Act.

The House recedes.

71. The House bill, but not the Senate amendment, provides that it is the sense of Congress that ESEA funding recipients should use ESEA funds for American-made products, and requires Federal agency heads to notify recipients of this "sense."

The Senate recedes.

72. The House bill, but not the Senate amendment, provides that anyone convicted of falsely affixing a Made in America label to a product shall be ineligible to receive a contract or subcontract made with ESEA funds.

The House recedes.

#### School Prayer

73. The House bill denies Department of Education funding to any State or local educational agency that has a policy of denying, or effectively denies, an individual's voluntary participation in constitutionally protected prayer in public schools, and bans the United States or any State or local educational agency from requiring prayer or influencing the content of constitutionally protected prayer in public schools. The Senate amendment denies Federal funding during a noncompliance period to any State or local agency judged to have willfully violated a court order to remedy a violation of students' rights with respect to prayer in public schools.

The House recedes with an amendment striking "Federal funds" and inserting "funds under this Act."

#### Youth Programs Limitation

74. The House bill mandates that public schools receiving ESEA funds stress abstinence and age appropriate materials in sex education courses, while providing that this section may not be construed to authorize

Federal control of, or administrative action with regard to curriculum. Two Senate amendments (section 407 and 408, respectively) prohibit using ESEA funds to promote sexual activity and to make condoms available in schools.

The House recedes with an amendment striking section 406 of the Senate amendment and combining the remaining provisions of the House bill and Senate amendment.

*Prohibition Against Funds for Homosexual Support*

75. The House bill provides that no local educational agency "shall use funds made available under this Act to implement" activities encouraging homosexuality; the agency "that receives funds under this Act shall implement" such activities.

The Senate recedes with an amendment striking section 406 of the Senate amendment and combining the remaining provisions of the House bill and Senate amendment.

76. The House bill, but not the Senate amendment, prohibits local educational agencies from using funds under the ESEA to distribute or aid in the distribution by any organization of any obscene material to minors on school grounds.

The House recedes with an amendment striking section 406 of the Senate amendment and combining the remaining provisions of the House bill and Senate amendment.

77. The House bill, but not the Senate amendment, provides that the section prohibiting funds for homosexual support may not be construed to authorize Federal control of, or administrative action with regard to curriculum.

The House recedes with an amendment striking section 406 of the Senate amendment and combining the remaining provisions of the House bill and Senate amendment.

78. The Senate amendment, but not the House bill, sets an effective date for the section prohibiting funds for homosexual support as one day after enactment.

The House recedes with an amendment striking section 406 of the Senate amendment and combining the remaining provisions of the House bill and Senate amendment.

*Nonsmoking Policy*

79. The House bill, but not the Senate amendment, (1) mandates that each person receiving ESEA funds and providing services to elementary and secondary school students establish and make a good-faith effort to enforce a nonsmoking policy that bans the smoking in indoor school facilities used by children, (2) establishes due process and civil penalties for noncompliance, (3) sets forth an effective date, with exceptions for collective bargaining agreements, of 180 days after enactment, and (4) prohibits preemption of State laws at least as restrictive as the Federal law.

The House recedes.

*Policy Regarding Criminal Justice System Referral*

80. The House bill requires each local educational agency receiving ESEA funds to have a policy addressing student possession and use of a gun on school property, and suggests possible policy content. The Senate amendment mandates that no ESEA funds shall be made available to any local educational agency unless that agency has a policy requiring referral to the criminal justice or juvenile delinquency system of any

student bringing a firearm or weapon to a school served by that agency.

The House recedes.

*Gun-Free Schools*

81. The Senate amendment, but not the House bill, prohibits, under the "Gun-Free Schools Act of 1994," a local educational agency from receiving ESEA funds unless that agency has a policy of requiring expulsion from school for not less than 1 year for any student bringing a weapon to a school under that agency's jurisdiction. This amendment allows for placement of the student in an alternative setting, sets forth a 1-year grace period for States having less restrictive expulsion laws, defines "weapon" and requires local educational agencies to report on State educational agencies on this matter.

Also, sections 404 and 405 of the Senate amendment, mandate disciplinary action for a student possessing a weapon in any school that receives Federal funds, and amend the Individuals with Disabilities Education Act to provide for an alternative setting in cases of life-threatening behavior by a child with a disability.

The House recedes with several amendments: requiring states receiving assistance under this Act to enact a law requiring the expulsion of students who bring a weapon to school for up to one year; directing the Secretary of Education to widely disseminate the current policy of the Department of Education with respect to disciplining children with disabilities; directing the Secretary of Education to collect data on the incidence of children with disabilities (as such term is defined in section 602(1) of IDEA) engaging in life-threatening behavior or bringing all types of weapons to schools and submit a report to Congress by January 31, 1995 analyzing the strengths and problems with the current approaches regarding disciplining children with disabilities. The conferees expect that this information will assist us in our deliberations around this issue next year when the Individuals with Disabilities Education Act is reauthorized. Additionally, the House recedes with amendments to define the term "weapons" by incorporating by reference the definition used in the Gun-Free Schools Act, i.e., "a firearm as such term is defined in section 921 of title 18, United States Code."; to modify the length of time in the alternative placement is modified by inserting "45 days" in lieu of 90 days; and to clarify the construction clause by adding at the end of the following phrase: "except that this section shall be interpreted in a manner that is consistent with the U.S. Department of Education's Guidance Concerning State and Local Responsibilities Under the Gun-Free Schools Act of 1994, as printed in the Congressional Record of July 28, 1994, at S. 10017."

It is the conferees' intent that the IEP team meet to determine whether an alternative placement is appropriate as soon as possible after the incident occurs, especially when there is reason to believe that the action of bringing the gun to school is related to the child's disability.

*Ethical Principles*

83. The House bill, but not the Senate amendment, provides that it is the sense of the Congress that States, local educational agencies, and schools encourage families in teaching ethical principles to their children.

The House recedes.

*Custodial Services*

84. The House bill, but not the Senate amendment, provides that a local edu-

catinal agency containing 5 counties and with a student population exceeding 900,000 may not use ESEA funding to compensate custodial personnel.

The House recedes.

*Sense of the Congress to Increase the Total Share of Federal Spending on Education*

85. The House bill, but not the Senate amendment, sets forth findings and provides that it is the sense of the Congress that the total share of Federal spending on education should increase by 1% per year until the share reaches 10% of the total Federal budget.

The Senate recedes.

*Other Provisions*

*State Recognition of Exemplary Performance*

86. The Senate amendment, but not the House bill, authorizes the State educational agency to implement a program of State recognition awards to ESEA recipients demonstrating outstanding performance.

The Senate recedes.

*Prohibition on Federal Mandates, Direction, and Control*

87. The Senate amendment, but not the House bill, provides that nothing in the ESEA shall be construed to authorize a Federal employee to control a "State, local educational agency, or school's curriculum or allocation of resources, or mandate costs not paid for under the ESEA."

The House recedes.

*Report*

88. The Senate amendment, but not the House bill, requires the Secretary to report to the Congress, within 180 days after enactment, regarding how the Secretary shall ensure that the Department's ESEA audits comply with changes made to the Act, particularly with regard to permitting children with similar educational needs to be observed in the same educational setting.

The House recedes.

*Required Participation Prohibited*

89. The Senate amendment, but not the House bill, provides that no State shall be required to participate in Goals 2000 programs or to have content or student performance standards approved under Goals 2000 in order to receive ESEA funds.

The House recedes.

*Privately Managed Schools*

90. The Senate amendment, but not the House bill, provides that the ESEA shall not be construed to deny States or local educational agencies the opportunity to use Federal funds to contract with private management firms.

The Senate recedes.

*Evaluations*

91. The Senate amendment, but not the House bill, authorizes the Secretary to reserve not more than 0.5% of ESEA appropriations to carry out evaluations of the effectiveness of ESEA and other Federal education programs. The amendment sets forth in detail the type of evaluations and studies to be undertaken, mandates the use of an independent panel to review the evaluation plan, and requires a report to the Congress by January 1, 1998. The amendment also authorizes the Secretary to provide guidance and technical assistance to ESEA recipients and provides that nothing in this provision shall be construed to establish a national data system.

The House recedes with amendments to merge the House and Senate language.

## IASA TITLE II—AMENDMENTS TO THE GENERAL EDUCATION PROVISIONS ACT

*Drafting Style*

1. The Senate amendment uses subsection headings and U.S. Code citations throughout its GEPA provisions. The House bill does not.

The House recedes.

*Title; Applicability; Definitions*

2. The Senate amendment, but not the House bill, contains a parenthetical exception providing that a reference to the "Act" does not include Part G (Conforming Amendments).

The House recedes.

3. The House bill heading for section 400 reads in part "TITLE". The Senate amendment reads in part "SHORT TITLE".

Legislative Counsel.

*Title; Applicability; Definitions*

4. The definition of "applicable program" in the House bill uses the term "statutes". The Senate amendment uses the term "Federal law".

Legislative Counsel.

*Repeal and Redesignation*

5. The House bill places all of the repeal provisions in one place (i.e., section 212(a)). The Senate amendment has them spread among five different sections.

The Senate recedes.

6. The House bill, but not the Senate amendment, redesignates the remaining sections and parts.

The Senate recedes with an amendment adding section 403 to the list of sections that are repealed in section 212(a), and striking section 403 (and its redesignation as section 401) from section 212(b).

7. The House bill, but not the Senate amendment, repeals section 405 (OERI).

This section, which authorizes the Office of Educational Research and Improvement, was repealed by section 911 of P.L. 103-227, the Educational Research, Development, Dissemination, and Improvement Act of 1994. The House recedes.

8. The Senate amendment, but not the House bill, repeals sections 403, 411, and 426.

The House recedes with an amendment providing for the repeal of section 403 only.

*Office of Non-Public Education*

9. The House bill, but not the Senate amendment, amends section 403 (section 401 as redesignated) to change the section heading to "Office of Non-Public Education", strike subsections (a), (b), and (c), and change "(d)(1)" to "(1)".

The House recedes.

*General Authority of the Secretary*

10. The House bill refers to "vested". The Senate amendment refers to "vested in the Secretary".

Legislative Counsel.

*Forward Funding*

11. The House bill amends the current law advance funding section (411 redesignated as 420) to authorize forwarding funding. The Senate amendment repeals the underlying section (411).

The Senate recedes.

*Availability of Appropriations*

12. The House bill amends the heading of section 421 (as redesignated), using the term "expenditure". The Senate amendment amends the heading of section 412, using the term "obligation".

The House recedes.

13. The Senate amendment, but not the House bill, in paragraph (1)(A), strikes "to educational agencies or institutions".

The House recedes.

14. The Senate amendment, but not the House bill, in paragraph (1)(B), changes "expenditure" to "obligation".

The House recedes.

15. The Senate amendment, but not the House bill, in paragraph (1)(C) changes "agency or institution concerned" to "recipient".

The House recedes.

16. The Senate amendment, but not the House bill, amends section 412(b) to restrict carryover authority to "applicable State formula grant programs", to define the term, and to make conforming changes.

The Senate recedes.

17. The Senate amendment strikes subsection (c) of section 412 pertaining to obligation of funds following the institution of a judicial proceeding. The House bill retains subsection (c) and changes a Revised Statutes citation to a U.S. Code citation.

The Senate recedes.

*Contingent Extension of Programs*

18. The House bill provides for the contingent extension of otherwise expiring programs for one additional fiscal year. The Senate amendment provides for two fiscal years.

The Senate recedes.

19. The House bill refers to the regular congressional session which "ends prior to the beginning of the terminal fiscal year". The comparable reference in the Senate amendment is "ends prior to the terminal fiscal year" (i.e., not "the beginning of the").

Legislative Counsel.

20. The Senate amendment provides that the contingent extension occurs unless the Congress "extends or has rejected legislation that would have extended" the authorization. The House bill refers to "extends or repeals".

The Senate recedes.

21. The House bill and Senate amendment provision regarding the amount of the authorization in the extension period are worded differently but have the same effect.

Legislative Counsel.

22. The House bill and the Senate amendment provisions regarding the Secretary's acts and determinations in the extension year have the same effect but are worded differently.

Legislative Counsel.

23. The House bill, but not the Senate amendment, provides that the contingent extension authority does not apply to commissions, councils, or committees.

The Senate recedes.

*State Reports*

24. The House bill, but not the Senate amendment, requires States biennially to furnish certain types of information to the Secretary, and requires the Secretary to annually submit a report to the House and Senate authorizing committees.

The Senate recedes.

*Biennial Evaluation Report*

25. The House bill and the Senate amendment require the same dates for submission of the reports to the House and Senate committees but have different wording.

Legislative Counsel.

26. The Senate amendment provides that this be a report on the effectiveness of programs in achieving their "legislated intent and purposes". The House bill refers only to "legislated purposes".

The House recedes.

27. Both the House bill and the Senate amendment require that the report include information on the achievement of program

objectives. In two places in paragraph (2), the House bill refers to "evaluation information". The Senate amendment refers only to "information".

The House recedes.

28. In paragraph (3), the House bill reads "contain selected significant program activities". The Senate amendment reads "contain selected significant program activities".

The House recedes.

29. In paragraph (5), the House bill, but not the Senate amendment, requires the report be prepared in concise summary form with necessary detailed data and appendices.

The Senate recedes.

30. At the end of paragraph (5), House bill reads "of their beneficiaries". The Senate amendment reads "of the beneficiaries of such programs and projects; and".

Legislative Counsel.

31. The Senate amendment, but not the House bill requires, in paragraph (6), that the report include results of the Title I program evaluations under section 10107 of the Elementary and Secondary Education Act of 1965 (ESEA).

The House recedes with an amendment changing the ESEA reference to section 10701.

*Technical Amendments*

32. The section heading in the House bill reads "Technical Amendment". The heading in the Senate amendment reads "Technical Amendments".

Legislative Counsel.

33. The House bill and the Senate amendment provide different references to the Elementary and Secondary Education Act of 1965.

Legislative Counsel.

34. The House bill and the Senate amendment provide different references to certain provisions in the Impact Aid law relating to children with disabilities and the definition of low-rent housing. (Note: the House references are wrong; it should read "section 8004(d) or residing on property described in section 8012(4)(A)(iii)".)

Legislative Counsel.

*Coordination*

35. The House bill, but not the Senate amendment requires that the National Assessment Governing Board, the Advisory Council on Statistics, the National Education Goals Panel, the National Education Statistics and Improvement Council and other boards relating to standards and assessments must coordinate with one another.

The Senate recedes with an amendment correcting the names of the Advisory Council on Education Statistics and the National Education Standards and Improvement Council, and making this provision a new section 428 of GEPA.

*Joint Funding of Programs*

36. The House bill and Senate amendment provision, pertaining to the use of funds in joint funding arrangement, have minor wording differences. Additionally, the Senate amendment, but not the House bill, provides that the funds must be used in accordance with appropriations Acts.

The Senate recedes.

37. In paragraph (2), the House bill refers to "by contract or grant only to recipients". The Senate amendment refers to "only to parties".

The Senate recedes.

38. In paragraph (3), the House bill refers to "an agreement". The Senate amendment refers to "a agreement".

The Senate recedes.

39. In paragraph (3), the House bill refers to "its procedures". The Senate amendment refers to "such agency's procedures".

Legislative Counsel.

40. In paragraph (3), the House bill refers to "award contracts or grants" and "such awards". The Senate amendment refers to "select recipients of funds under such project" and "the awards", respectively.

Legislative Counsel.

41. In paragraph (4), the House bill refers to "subsection (a) of this section". The Senate amendment refers to "this subsection".

Legislative Counsel.

43. In paragraph (4) the Senate amendment refers to "provides funding under the joint project". The House bill refers to "provides funding".

Legislative Counsel.

43. In paragraph (4), the House bill refers to "jointly funded projects" and to "those projects". The Senate amendment refers to "the jointly funded project" and "for such project", respectively.

Legislative Counsel.

44. In subsection (b), the House bill provides "awards are made". The Senate amendment provides "funds are awarded".

Legislative Counsel.

45. In subsection (b), the House bill refers to "must meet". The Senate amendment refers to "shall meet".

Legislative Counsel.

46. The House bill, but not the Senate amendment, provides in subsection (c) that the Secretary may not construe the provisions of this section to take precedence over a limitation on joint funding contained in an applicable statute.

The Senate recedes.

47. The House bill, but not the Senate amendment, requires in subsection (d) that the Secretary to give notice of joint funding agreements to the House and Senate committees within 60 days of making such agreements and describes the kind of information to be provided in the notices.

The Senate recedes.

#### *Collection and Dissemination of Information*

48. The House amendment and Senate amendment both amend section 422 of GEPA (redesignated section 431 by the House bill) to strike "(a)", change "Commissioner" to "Secretary", and strike paragraph (4) and subsections (b) and (c). The House bill makes the changes with cut and bite amendments. The Senate amendment rewrites the section and, in paragraph (3), changes "their purposes" to "the intended purposes of such programs".

The House recedes.

#### *Review of Applications*

49. The Senate amendment, in subparagraphs (C) and (D) of paragraph (1) omits the word "thereof" found in paragraph (1)(C) and (D) of the House bill.

The Senate recedes.

50. In paragraph (2), the House bill uses "it". The Senate amendment uses "such term".

Legislative Counsel.

51. The Senate amendment, but not the House bill, breaks the text of paragraph (3) into subparagraphs.

Legislative Counsel.

52. In paragraph (3), the House bill refers to "each time it appears". The Senate amendment refers to "each place such term appears".

Legislative Counsel.

53. The House bill, but not the Senate amendment, requires that, whenever feasible, statistics and other data collection and analysis be collected, cross-tabulated, analyzed and reported by sex within race or ethnicity and socioeconomic status. In the

event that the Secretary determines that such statistics or data collection and analysis reveals no significant differences among such categories, the Secretary shall include in the relevant report an explanation of such determination.

The House recedes.

#### *Technical Amendment*

54. The House bill, but not the Senate amendment, in section 427 (redesignated 434), changes "he" to "Secretary". Note that the House bill puts this provision in a separate section while the Senate amendment places it in a later section containing other technical amendments.

The Senate recedes.

#### *Use of Funds Withheld*

55. The House bill, in subsection (b)(1) refers to "allotments of other local educational agencies within the State, or the allotments of all States, in accordance with the statutes governing the program". The Senate amendment reads: "allotments or reallocations of local educational agencies within the State that are not described in subsection (a), or the allotments or reallocation of all States, in accordance with the Federal law governing the program".

The House recedes.

#### *Applications*

56. The Senate amendment, but not the House bill, provides that the amendment is to subsection (a) of the applications section (although that is the intent of the House bill).

The House recedes.

#### *Regulations*

57. The House bill strikes obsolete and unnecessary provisions from the current law (i.e., in cut and bite provisions), keeping many of the current law requirements. The Senate amendment contains similar requirements but does so in a rewrite of the current law.

The House recedes.

58. In addition to technical differences, the Senate amendment provides that, in order for one of the enumerated actions to be a "regulation", it must have a "legally binding effect in connection with, or affecting, the provision of financial assistance under any applicable program." The House bill leaves similar language in the current law provision requiring citations of legal authority.

The House recedes.

59. The Senate amendment requires that regulations issued by the Secretary or the Department contain citations of legal authority. The House bill preserves the similar current law provision which differs from the Senate amendment by not having the above underlined language and by providing that the citation requirement applies to regulations "in connection with, or affecting, the administration of any applicable program".

The House recedes.

60. The uniform application provision in the Senate amendment refers to "the 50 States". The current law language preserved by the House bill refers to "the fifty States".

Legislative Counsel.

61. The House bill preserves the current law provisions requiring the publication of proposed regulations, a 30-day comment period, publication of final regulations, transmission of such final regulations to the Congress and a 45-day delay in their effectiveness. The Senate amendment provides (i) for promulgation of regulations in accordance with section 553 of the Administrative Procedure Act (with no 45-day delay), and (ii) that

the APA grant exemption shall apply only to regulations (i) that govern a grant competition for the first year of a new program, or (ii) where the Secretary determines that the requirements of this subsection will cause extreme hardship to intended program beneficiaries (similar to current law).

The House recedes with an amendment clarifying the language describing the regulations to which the APA grant exemption applies.

62. The regulations schedule provision in the Senate amendment is similar to the current law provisions preserved by the House bill, the major difference being that, under the provisions of the Senate amendment, the schedule does not have to be submitted to Congress within 60 days and regulations do not have to be promulgated within 180 days following the submission of the schedule. Instead, the Senate amendment requires that the schedule and promulgation of regulations be completed within 480 days.

The House recedes with an amendment providing that the regulations schedule must be submitted to the Congress within 60 days of the date of enactment of any Act, and providing that the regulations must be promulgated within 360 days of the date of enactment of any Act.

63. The Senate amendment, but not the House bill (or current law), provides that, if the Secretary determines, in an exceptional case and for good cause, that a final regulation cannot be promulgated within the 480-day period, the Secretary shall include in the schedule the reasons for the determination and the date when the regulation will be promulgated. The Senate amendment also provides that regulations will be promulgated in accordance with the schedule and if, for good cause, the Secretary later determines that the Department cannot comply with the schedule, the Secretary shall notify the Congress with reasons why and submit a new schedule.

The Senate recedes.

#### *Records Reduction in Retention Requirements*

64. In paragraph (1)(A), the House bill refers to "striking out". The Senate amendment refers to "striking".

Legislative Counsel.

65. In paragraph (1)(A), the House bill refers to "inserting in lieu thereof". The Senate amendment refers to "inserting".

Legislative Counsel.

66. In paragraph (1)(C), the House bill changes current law to reduce from 5 to 3 years the amount of time following a grant that a recipient must retain records. The Senate amendment eliminates the time period requirement altogether.

The Senate recedes.

67. In paragraph (2), the House refers to "striking out". The Senate amendment refers to "striking".

Legislative Counsel.

68. In paragraph (2), the House bill refers to "inserting the lieu thereof". The Senate amendment refers to "inserting".

Legislative Counsel.

69. In paragraph (2), the House bill refers to "currently maintained". The Senate amendment refers to "maintained".

Legislative Counsel.

#### *Privacy Rights*

70. The Senate amendment, but not the House bill, includes provisions on privacy rights which amend various portions of FERPA (section 438 or 444 as redesignated by the House bill). In particular, the Senate amendment (would deny funding under any applicable program to any SEA which has a

policy of denying (or which effectively prevents) the parents of students the right to inspect their children's education records maintained by the SEA, (ii) provides that the educational interests of other school officials, to whom students' educational records may be released without parental consent, include "the educational interests of the child for whom consent would otherwise be required," (iii) adds the entity or persons designated in a Federal grand jury or other subpoena to those individuals and organizations to whom students' educational records may be released without parental consent, (iv) provides that an educational agency or institution may be prohibited for a period of 5 years from providing information from educational records to a third party which illegally has permitted access to students' educational records or failed to properly destroy information, (v) places a time constraint of 240 days following enactment of the reauthorization bill on the requirement for the Secretary to adopt or identify appropriate regulations regarding student and family privacy rights, and (vi) adds a proviso that nothing in FERPA is designed to prohibit an educational agency from including appropriate information in the records of a student who poses a significant safety risk to other students and from disclosing such information to teachers and other school officials who have legitimate educational interests in the behavior of the student.

The House recedes with an amendment adding "or procedures" to the "appropriate regulations" language, clarifying that "appropriate information" is that concerning disciplinary actions taken against such student for conduct that poses a significant safety risk for others, and making technical corrections.

#### Release of Records

71. The House bill, but not the Senate amendment, amends FERPA to permit in limited circumstances the release of records concerning the ability of the juvenile justice system to more effectively serve students and describes the specific requirements for such release.

Senate recedes with an amendment clarifying that the disclosed information concerns the juvenile justice system and its ability to effectively serve the student whose records are released prior to adjudication.

#### Protection of Pupil Rights

72. The House bill, but not the Senate amendment, adds new provisions to section 439 (445 as redesignated by the House bill) requiring instructional materials be available for parental inspection, ensuring that students may not be required to reveal certain types of information through surveys, analyses or evaluations without prior consent, requiring that parents be advised of their rights under this section, requiring the Secretary to take appropriate action to enforce this section, and requiring the Secretary to designate an office and review board within the Department to investigate, process, review, and adjudicate violations of the rights established under this section.

An identical amendment was enacted as part of Goals 2000: Educate America Act, section 1017, P.L. 103-227. The House recedes.

#### Enforcement

73. The House bill, but not the Senate amendment, amends the GEPA audit and enforcement provisions to: clarify the congressional intent regarding the establishment of a prima facie case for the recovery of grant funds; extend from 30 to 60 days the time for

filing for a review of a preliminary departmental decision; prohibit ex parte contact which otherwise could prejudice the review; confine the decision on the making of grantbacks to whether the recipient corrected the violations of law; and ensure that recovered funds remain available for a reasonable period of time if a recipient files for judicial review.

The Senate recedes with an amendment preserving the current law grantback language which requires that a recipient, in all other respects, be in compliance with the requirements of that program but provides that the recipient must have been notified of its noncompliance with such requirements within 100 days of receiving a preliminary departmental decision under section 452(a)(1).

#### Technical Amendments

74. Subsection (b) of the House bill contains "thereof". Subsection (b)(2) of the Senate amendment contains "of the matter preceding paragraph (1)".

75. Subsection (c) of the House bill uses "it". Subsection (c) of the Senate amendment uses "such term".

76. The Senate amendment, but not the House bill, replaces an exception related to an Impact Aid section with "All laborers".

77. Subsection (d)(1) of the House bill reads "heading of". Subsection (e)(1) of the Senate amendment reads "heading for".

78. Subsection (2)(A) uses "it". The Senate amendment uses "such term".

79. Subsection (e)(1) of the House bill uses "it". The Senate amendment in subsection (f)(1) uses "such term".

80. Subsection (e)(2)(B) of the House amendment strikes an entire parenthetical phrase. Subsection (f)(2) of the Senate amendment amends the language to read "in the case of programs under chapter 1 and chapter 2 of title I of the Elementary and Secondary Education Act of 1965".

81. The Senate amendment, but not the House bill, strikes "title V of such Act" and inserts "part A of title V of the Elementary and Secondary Education Act of 1965".

82. Paragraph (2)(B) of the House bill uses "it". The Senate amendment in subsection (2)(B) uses "such term".

83. In paragraph (2)(C), the House bill refers to "(7)". The Senate amendment refers to "(7)(B)".

84. Subsection (g) (1) of the House bill contains the phrase "at the end thereof". Subsection (h)(1) of the Senate amendment does not.

85. Paragraph (4)(A) of the House bill and the Senate amendment use different drafting styles to strike ", or an administrative head of an education agency,".

86. Paragraph (4)(B) of the House bill and the Senate amendment use different drafting styles to strike "provisions of".

87. Paragraph (4)(D) of the House bill and the Senate amendment use different drafting styles to strike "provisions of".

88. Paragraph (5)(A) of the House bill amends "the Department of Health, Edu-

cation, and Welfare" in section 438(g) (redesignated section 444) to read "the Department of Education". The paragraph (5)(A) of the Senate amendment amends such language to read "The Department".

Legislative Counsel.  
*Equity for Students, Teachers, and Other Program Beneficiaries*

89. The House bill inserts this new section as section 427. The Senate amendment inserts it in section 426.

90. The House bill, near the end of subsection (a), reads "their ability". The Senate amendment reads "the ability of such students, teachers, and beneficiaries".

91. The House bill, in subsection (b), reads "its application the steps it proposes to take". The Senate amendment reads "such applicant's application the steps such applicant proposes to take".

92. The House bill, in subsection (d), refers to "is intended". The Senate amendment refers to "shall be construed".

Legislative Counsel.  
*Disclosure Requirements*

93. The House bill is organized in a section of GEPA; the Senate amendment is organized in Title XII Disclosure Requirements.

The Senate recedes with an amendment providing that this is a new section 429 of GEPA.

94. The Senate bill, but not the House amendment refers to each educational agency "prior to enrolling a minor", and in subparagraph (B) any recruitment through "a local school official".

95. The House bill says "any enticements offered to such teacher or personnel"; the Senate amendment says "any compensation or other benefit offered to such official, teacher, or personnel".

96. The House bill refers to a verifiable statement "on" all enrollment; the Senate amendment refers to a verifiable statement "in" all enrollment.

97. The House bill has a entitles the paragraph "Enforcement" and has a subparagraph heading "In General"; the Senate amendment has entitles the section "Enforcement".

98. The House bill says the Secretary of Education shall monitor compliance with the provisions of this section; the Senate amendment says the Secretary shall widely disseminate information about the requirements of this section, and require educational organizations to submit appropriate information regarding compliance with this title.

99. The House bill says if an educational organization knowingly violates any provision of this Act, the Secretary of Education, after notice and opportunity for hearing, may impose a civil fine of not more than \$1000 for each such violation; the Senate amendment says the Secretary shall take whatever steps the Secretary determines are appropriate to enforce this title, including imposing civil fines (not to exceed \$1,000 per violation) on educational organizations that knowingly violate this title.

100. The House bill, but not the House amendment has a section heading and defines the term disability.

The House recedes.

101. The House bill says that educational organizations, as defined by this section, means an organization or groups which provides special honors programs, seminars or other educational experiences or honors generally directed toward minors or high school students and charges a tuition or enrollment fee; the Senate has a paragraph heading and says except as provided in subparagraph (B) and (C), the term educational organization means any organization or entity that provides an education program for a fee.

The House recedes.

102. The House bill, but not the Senate amendment, defines further defines educational organization as an organization or group which offers its program away from a students regular place of school attendance, includes not less than 1 supervised night away from home, and is intended to enhance a student's regular course of study.

The House recedes.

103. The House bill says advertises and recruits students through commercial media, direct mailings, school recruitment programs, or school administrators or teachers; the Senate amendment says recruits student through means such as commercial media, direct mailings, school recruitment programs, school administrators, teachers, or staff, or current or former participants in an education program offered by such organization or entity.

The House recedes.

104. The House bill says the definition in subparagraph (A) shall not include a local educational agency, State education agency, a State department of education, or an elementary or secondary school as defined by this Act; the Senate amendment says such term shall not include a local educational agency, a State educational agency, a State department of education, or an elementary or secondary school.

The Senate recedes with an amendment changing the reference to "this Act" to "the Elementary and Secondary Education Act of 1965".

105. The House amendment, but not the Senate bill says "as defined by the Higher Education Act of 1965.

The Senate recedes with an amendment adding a section reference to the Higher Education Act of 1965 reference.

106. The House bill says a recreational or entertainment organization; the Senate amendment says a recreational organization, an entertainment organization.

The House recedes.

107. The Senate amendment, but not the House bill, exempts certain organizations or entities from the definition.

The House recedes with an amendment simplifying the wording of subparagraph (C).

108. The Senate amendment, but not the House bill, defines the term "educational program".

The House recedes.

109. The Senate amendment, but not the House bill, defines the term "local school official".

The House recedes.

110. The Senate amendment, but not the House bill, defines the term "minor".

The House recedes.

111. The Senate amendment, but not the House bill, defines the term "membership organization".

The House recedes.

112. The Senate amendment, but not the House bill, defines the term "recreational organization".

The House recedes.

113. The Senate amendment, but not the House bill defines the term "recreational program".

The House recedes.

#### *Department of Education Organization Act*

114. The Senate amendment, but not the House bill, amends DEOA to establish an Office of Private Education.

The House recedes with an amendment changing the section heading to "Office of Nonpublic Education" and the text to an updated version of the language in section 203(a) of current law.

115. The House bill amends the DEOA to repeal section 414 (Rules) in its entirety. The Senate amendment strikes subsection (b) leaving a general statement of the Secretary's authority to issue rules.

The House recedes.

116. The House bill, but not the Senate amendment, redesignates the remaining sections of the DEOA.

The Senate recedes with an amendment striking the redesignation of sections 415 through 426.

117. The Senate amendment, but not the House bill, amends the gifts and bequests section to add "and to accept donations of services".

The House recedes.

118. The House bill, but not the Senate amendment, amends the DEOA table of contents.

The Senate recedes with an amendment adding "Sec. 214. Office of Non-Public Education", adding "Sec. 414. Rules", and redesignating the succeeding sections accordingly.

119. The House bill, but not the Senate amendment, establishes a Special Assistant for Gender Equity within the Department appointed by the Secretary.

The Senate recedes.

#### *The Rehabilitation Act of 1973*

120. The Senate amendment, but not the House bill, repeals sections 9 and 100 of the Rehabilitation Act of 1973.

The House recedes with an amendment repealing section 9 only.

#### *LASA TITLE III—AMENDMENTS TO OTHER ACTS* *Amendments to the Individuals with Disabilities Education Act* *Grant Amounts*

1. The House bill refers to Grant Amounts. Senate Amendment refers to Maximum Amount. House bill uses the phrase "referred to in this title as the 'IDEA'" in parentheses. Senate amendment uses the phrase "hereinafter in this part referred to as the 'Act,'" and cites 20 U.S.C. 1141(a).

The House recedes.

#### *Grant Amounts*

2. The House bill refers to "the grant for which a State is eligible under this section." Senate amendment refers to "grant for which a State is entitled under this section."

The House recedes.

3. The House bill and the Senate provisions have the same provision, but structure the sentence differently.

The House recedes.

4. The House bill and the Senate amendment have similar provisions, with technical differences throughout section 3(A)(i) and (ii). House bill refers to 199—; Senate amendment refers to 1994. House bill refers to "as in effect the day before the date of the enactment of the Improving America's School Act of 1994; the Senate amendment refers to "as such subpart was in existence on the day preceding the date of enactment of the Improving America's School Act of 1994.

The House recedes.

5. The House bill refers to "as in effect the day before the date of the enactment of the Improving America's Schools Act of 1994," and the Senate amendment refers to "(as such subpart was in existence on the day preceding the date of enactment of the Improving America's Schools Act of 1994)".

The House recedes.

6. The House bill inserts "and" at the end thereof. Senate bill does not.

The Senate recedes.

7. House bill and Senate amendment have technical differences throughout (i) and (ii). The House recedes.

8. The House bill refers to "as in effect the day before the date of the enactment of the Improving America's Schools Act of 1994, the amount determined . . ." while the Senate amendment refers to "(as such subpart was in existence on the day preceding the date of enactment of the Improving America's School's Act of 1994)".

The House recedes.

9. The House bill uses the word "semicolon" and the phrase "at the end thereof" while the Senate amendment simply uses the symbol for semicolon and does not use the phrase "at the end thereof."

The House recedes.

10. The House bill entitles (b) "Amount Received." The Senate amendment titles it "State Uses." Technical differences in the description 611(b) of IDEA.

The House recedes.

11. The House bill adds the phrase "of this section" and refers to less than the combined amount it received for fiscal year 1994" while the Senate amendment refers to "less than the sum of the amount such State received for fiscal year 1994."

The House recedes.

12. The House bill refers to "as in effect the day before the date of the enactment of the Improving America's Schools Act of 1994" while the Senate amendment refers to "(as such subpart was in existence on the day preceding the date of enactment of the Improving America's Schools Act of 1994)."

The House recedes.

13. The House bill refers to "such State's fiscal year 1994 grants" and the Senate amendment refers to "that State's fiscal year 1994 grants." The House bill refers to "as in effect the day before the date of the enactment of the Improving America's Schools Act of 1994" while the Senate amendment refers to "(as such subpart was in existence on the day preceding the date of enactment of the Improving America's Schools Act of 1994) then."

The House recedes.

14. The House bill provides that in any fiscal year in which the amount appropriated for grants under this section is less, in real dollar terms, than the amount appropriated in the immediate preceding fiscal year, the amount for each State under this subsection will be reduced proportionately. The Senate amendment provides in (3)(A) that if the sums made available under this part for any fiscal year are insufficient to pay the full amounts that all States are eligible to receive under paragraphs (1) and (2) for such year, the Secretary shall ratably reduce the allocations to such States for such year.

The House recedes.

15. The Senate amendment further provides that if additional funds become available for making payments under paragraphs (1) and (2) for such fiscal year, allocations that were reduced under subparagraph (A) shall be increased on the same basis as such allocations were reduced.

The House recedes.

16. House bill entitles this section "Uses of Funds." Senate amendment entitles it "Distribution."

The House recedes.

17. House bill refers to "up to 25 percent." Senate amendment refers to "not more than 25 percent."

The House recedes.

18. The House bill refers to "75 percent to local educational agencies . . ." while the Senate amendment refers to "75 percent of such funds to local educational agencies . . ." and includes the word "and" at the end of the provision.

The House recedes.

19. The House bill entitles the section "State Funds;" the Senate amendment entitles it "Formula."

The House recedes.

20. The House bill refers to "receives, from the combination of such funds" while the Senate amendment includes "(as such subpart was in existence on the day preceding the date of enactment of the Improving America's Schools Act of 1994) receives, from the sum of such funds. . . ."

The House recedes.

21. The House bill states that the State "may use such funds to ensure that each local educational agency that received fiscal year 1994 funds . . ." The Senate amendment states that the State "shall use such funds, for fiscal years 1995 and 1996, and may use such funds, for fiscal years 1997, 1998 and 1999, to ensure that each local educational agency that received funds for fiscal year 1994 under such subpart . . ."

The House recedes.

22. The House bill provides that in any fiscal year in which the amount appropriated for grants under this section is less, in real dollar terms, than the amount appropriated in the preceding fiscal year, the amount for each State under this subsection will be reduced proportionately.

The House recedes.

23. The House bill entitles this section "Jurisdiction" while the Senate entitles it "Jurisdiction." Technical differences in describing Section 611(e)(1) of IDEA.

Legislative Counsel.

24. Both the House bill and the Senate amendment list the jurisdictions to which the subsection applies, but the House bill adds the phrase "(until the effective date of the Compact of Free Association with the Government of Palau)."

The House recedes.

25. The House bill entitles this section "Possible Ratable Reduction." The Senate amendment entitles it "Insufficient Appropriations" Technical differences in the wording of the section.

The House recedes.

26. Identical provisions except that in (B), the House refers to "the same basis as they were reduced" while the Senate amendment refers to "the same basis as such payments were reduced." In (C), the House bill uses the phrase "shall distribute them in accordance with this section" while the Senate amendment uses the phrase "shall distribute such funds in accordance with this section."

The House recedes.

27. The House bill refers to "such funds as it so used" and the Senate amendment refers to "such funds as the State so used."

The House recedes.

28. The House bill uses the phrase "the amount of funds available to it under this section that it estimates it will expend." The Senate amendment uses the phrase "the amount of funds available to such agency

under this section that such agency estimates such agency will expend."

The House recedes.

29. The House bill, when referring to the state, uses the word "it." The Senate amendment uses the term "the State." See similar technical differences throughout section (B).

The House recedes.

30. The House bill refers to "IDEA" while the Senate amendment refers to "the Act (U.S.C. 1141 et seq.)."

The House recedes.

31. The Senate amendment adds the parenthetical: "(as such subpart was in existence on the day preceding the day of enactment of the Improving America's Schools Act of 1994)".

The House recedes.

32. Both the House bill states that the SEA shall ensure that each State agency that owns or operates or supports a program or school for children with disabilities with funds under this part provides each child with a disability in a school or program a free appropriate public education in accordance with this part, and submit an application to the SEA that meets the requirements of Section 614 that the Secretary finds appropriate. The Senate amendment requires the same, but requires the agency to provide an application to the SEA containing assurances that such measures will be taken. Technical differences in the structure of the provisions.

The House recedes.

33. The House bill entitles section (a) "Allocations." Senate amendment entitles it "Amendment." Technical differences in sentence formation. House bill amends paragraph (1) of subsection (c) in the act by exempting paragraphs (3) and (4). Senate amendment exempts paragraphs (3), (4), and (5), in its amendment.

The House recedes.

34. Technical difference in provision structure. Senate amendment includes "(3) by inserting after paragraph (1) the following new paragraphs:"

The House recedes.

35. The House bill refers to "the relative numbers of infants and toddlers" and the Senate amendment refers to "the relative number of infants and toddlers with disabilities."

The House recedes.

36. The House bill refers to "as in effect before the enactment of the Improving America's Schools Act of 1994" while the Senate refers to "(as such section was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994)."

The House recedes.

37. The Senate amendment includes "Except as provided in paragraph (5)," before the provision of (4)(A).

The House recedes.

38. The Senate amendment includes (5)(A), which is a ratable reduction provision.

The House recedes.

39. The Senate amendment includes (5)(B) which provides that if additional funds become available for making payments under this subsection for such fiscal year, allocations that were reduced under subparagraph (A) shall be increased on the same basis as such allocations were reduced.

The House recedes.

*Family Support for Families of Children with Disabilities*

40. The Senate amendment includes the Support for Families of Children with Disabilities Act of 1994, and amends the Individuals with Disabilities Education Act by adding a new part, entitled Family Support.

The House recedes with amendments, the first amendment adding a 75/25 matching requirement; the second amendment clarifying the obligation of States to conduct outreach to underrepresented populations such as minorities, the poor, and persons with limited-English proficiency. The third amendment clarifies that a state desiring to receive assistance must designate an existing council or establish a new council to be considered as a State Policy Council for Families of Children with Disabilities. The conferees intend that States should use existing councils, to the maximum extent appropriate.

41. The Senate amendment provides that a State desiring to receive financial assistance under this part shall establish a State Policy Council for Families of Children with Disabilities.

The House recedes with amendments, the first amendment adding a 75/25 matching requirement; the second amendment clarifying the obligation of States to conduct outreach to underrepresented populations such as minorities, the poor, and persons with limited-English proficiency. The third amendment clarifies that a state desiring to receive assistance must designate an existing council or establish a new council to be considered as a State Policy Council for Families of Children with Disabilities. The conferees intend that States should use existing councils, to the maximum extent appropriate.

*Stewart B. McKinney Homeless Assistance Act*

42. In General: The House bill, but not the Senate amendment, amends the table of contents of Part B.

The Senate recedes.

*Adult Education for the Homeless*

43. In General: Both the House bill and the Senate amendment make amendments to the section in the McKinney Act regarding education programs for homeless adults. Both the House bill and the Senate amendment refer to the section as "state literacy initiatives" but there are technical differences in the structure of the section's title. Section 321 of the House bill is entitled "Statement of Policy." Section 321 of the Senate amendment is entitled "State Literacy Initiatives."

Legislative Counsel.

44. The House bill includes a "Subtitle A—Adult Education for the Homeless" and follows with a section 701 entitled "State Literacy Initiatives" The Senate amendment amends this provision at Section 702.

Legislative Counsel.

45. The House bill refers to "funding recipients" while the Senate amendment refers to "recipients of funds;" the Senate amendment refers to part H of title IV of the Job Training Partnership Act, while the House bill does not refer to part H; the Senate amendment refers to part A of title I of the Domestic Volunteer Service Act of 1973, while the House bill makes no such reference; the Senate amendment refers to part F of title IV of the Social Security Act, while the House bill contains no such reference; the Senate amendment refers to part F of title IV of the Social Security Act, while the House bill contains no such reference.

Legislative Counsel.

46. The Senate amendment includes the title "Estimates and Amount." Technical differences with respect to placement of the word "shall;" the House bill refers to "he or she" while the Senate amendment refers to "such Secretary."

Legislative Counsel.

*Education for Homeless Children and Youth*

47. Technical differences in the structure of the title.

Legislative Counsel.

48. The House bill refers to "its" while the Senate amendment refers to "the State's."

Legislative Counsel.

49. The House bill refers to "they" while the Senate amendment refers to "such children and youth."

Legislative Counsel.

50. Technical difference in the position of the section headings and in the structure of provision on general authority.

Legislative Counsel.

51. The House bill refers to "and use these funds under terms that the Secretary determines best meet the purposes of the covered programs." The Senate amendment refers to "and use of the funds described in clause (i) under terms that the Secretary determines best meet the the purposes of the programs described in such clause."

Legislative Counsel.

52. Activities: The House bill entitles this section "Activities" while the Senate amendment entitles it "Mandated Activities." Both the House bill and the Senate amendment make the activities mandatory, by use of the word "shall."

The Senate recedes.

53. Grants: The House bill refers to "shall provide grants to local educational agencies for purposes of section 723." The Senate amendment refers to "shall use funds as exceed the amount such agency received for fiscal year 1990 under this subtitle to provide grants to local educational agencies in accordance with section 723."

The Senate recedes.

54. The House bill refers to "at its discretion, may provide such grants;" the Senate amendment refers to "at such agency's discretion, may provide grants."

Legislative Counsel.

#### *Functions of the Office of Coordinator*

55. The House bill refers to "homeless children and youth and their families, including children who are preschool age;" the Senate amendment refers to "homeless children and youth, including children and youth who are preschool age, and families of such children and youth."

Legislative Counsel.

#### *State Plan*

56. The House bill refers to "equal access to the same public preschool programs, administered by the State agency, as provided to other children" while the Senate amendment refers to "equal access to preschool programs provided to other children."

The Senate recedes.

57. The House bill refers to "that serves each homeless child and youth;" the Senate amendment refers to "of each homeless child and youth."

Legislative Counsel.

58. The House bill refers to "any public school;" the Senate amendment refers to "any school."

The Senate recedes.

59. In General: The House bill provides that in determining the best interests of the child or youth under subparagraph (A), the local educational agency shall comply with the request made by a parent or guardian regarding school selection unless there is a compelling reason for not complying with this request. The Senate amendment provides for the same compliance requirement, but states that the local educational agency shall comply with the request "to the extent feasible."

The House recedes with an amendment deleting provision requiring that a compelling reason be shown for noncompliance.

#### *Provision and Coordination of Services*

60. In General: Transportation: The House bill requires that each homeless child or

youth shall be provided services comparable to services offered to other students in the school selected according to the provisions of paragraph (3), including transportation services. The Senate amendment includes the same provision, but states that transportation services shall be one of the comparable services provided to homeless children and youth," except as required by paragraph (9)," which requires that the state plan demonstrate that transportation will be provided at no cost to homeless children and youth attending the school in which such children are enrolled.

The Senate recedes.

61. In General: The House bill provides that each local educational agency serving homeless children and youth that receives assistance under this subtitle shall coordinate with local social service agencies and other agencies or programs providing services to such children or youth or their families including services and amendment has the identical provision, but does not require coordination with services or programs funded under the Runaway and Homeless Youth Act.

The Senate recedes.

62. The House bill refers to each local educational agency "in a state" and "receives a grant under this subtitle;" the Senate amendment refers to "receives assistance under this subtitle."

Legislative Counsel.

63. In General: Homelessness Liaison: The House bill provides that each local educational agency receiving assistance under this subtitle appoint a homelessness liaison to ensure that "homeless families, children and youth receive educational services for which they are eligible, including preschool programs administered by the local educational agency"; the Senate amendment refers only to "preschool programs."

The Senate recedes with an amendment to include Head Start so that the provision would read "including Head Start programs and preschool programs administered by the local education agency. . . ."

64. LEA Plan: The Senate amendment provides that each plan adopted shall demonstrate that transportation will contain procedures for resolving disputes between LEAs or within a LEA concerning transportation costs for homeless children and youth.

The Senate recedes.

65. In General: Coordination of Services: The House bill refers to "A State and local educational agency shall coordinate" and "Consideration shall be given to State and local housing and shelter policies described in the Comprehensive Housing Affordability Strategy;" the Senate amendment provides that "Where applicable, each State and local educational agency shall coordinate" and includes after strategy "described in section 105 of the Cranston-Gonzalez National Affordable Housing Act.

The House recedes.

#### *Local Education Agency Grants For the Education of Homeless Children and Youth*

66. Technical differences in structure of the heading.

Legislative Counsel.

67. The House bill refers to "and with amounts made available;" the Senate amendment refers to "and from amounts made available."

Legislative Counsel.

68. LEA Grants: General Authority: The House bill provides that where services are provided through programs to homeless students to homeless students on school grounds, schools may provide services to other children and youth who are determined

by the local educational agency to be at risk of failing in, or dropping out of, schools, on an incidental basis. The Senate amendment does not include the provision "on an incidental basis." Instead, it includes the identical provision stated above, and adds "except that priority for such services shall be given to homeless children and youth."

The Senate recedes.

69. The House bill provides that "Services provided under this section are not intended to replace the regular academic program and shall be designed to expand upon or improve services provided as part of the school's regular academic program." The Senate amendment states that Services shall be designed to expand upon or improve services provided as part of the schools' regular academic program, but does not include that services are not intended to replace the regular academic program.

The Senate recedes.

#### *Authorized Activities*

70. The House bill refers to "and with amounts made available;" the Senate amendment refers to "and from amounts made available."

Legislative Counsel.

71. Authorized Activities: The House bill and the Senate amendment both provide that authorized activities include the provision of before- and after-school and summer enrichment programs in which a teacher or other qualified individual provides tutoring, homework assistance, and supervision of educational activities. The House bill, however, includes mentoring programs in this list while the Senate amendment does not.

The Senate recedes.

72. Authorized Activities: The House bill includes "including programs funded under the Runaway Homeless Youth Act."

The Senate recedes.

73. Authorized Activities: The House bill refers to the provision of counseling as an authorized activity; the Senate amendment refers to the provision of pupil services.

The Senate recedes.

73A. (page 137 of the side-by-side) Add "1989" after "1988."

74. Authorized Activities: The House bill includes the provision of school supplies; the Senate amendment does the same, but expands the provision to school supplies to be distributed at shelters or temporary housing facilities, or other appropriate locations."

The House recedes with an amendment such that the provision would read: "the provision of school supplies, including those to be distributed at shelters or temporary housing facilities, or other appropriate locations;"

#### *Secretarial Responsibilities*

75. Technical differences in heading.

Legislative Counsel.

76. Submission and Distribution: The House bill, but not the Senate amendment, provides that the Secretary shall require applications for grants to be submitted to the Secretary not later than the expiration of the 60-day period beginning on the date that funds are available, and shall make such grants not later than 120 days later than that date.

The Senate recedes.

77. Secretarial Responsibilities: The House bill, but not the Senate amendment, provides that the Secretary shall determine the extent to which State educational agencies are ensuring that each homeless child and youth have access to a free appropriate public education.

The Senate recedes.

78. Reporting Requirements: The House bill provides that the Secretary shall prepare and submit a report to "the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate on the programs and activities authorized by this subtitle by December 31, 1997, and every third year thereafter. The Senate amendment has a similar provision, except it states that the Secretary shall prepare and submit a report "to Congress."

The House recedes.

#### Other Act

##### Goals 2000: Educate America Act

79. The Senate amendment repeals various sections of Goals 2000: Educate America Act, and amends other sections.

The House recedes.

80. The Senate amendment amends Section 204 of the Goals 2000: Educate America Act by providing that the National Education Goals Panel and the National Education Standards and Improvement Council may accept, administer, and utilize gifts or donations of services, money, or property, whether real or personal, tangible or intangible.

The House recedes.

81. The Senate amendment amends paragraph (4) of section 309(a) of the Goals 2000: Educate America Act by inserting the words "made by the local educational agency" after the words "modifications."

The House recedes.

82. The Senate amendment amends paragraph (2) of section 702(b) of the Safe Schools Act of 1994 (20 U.S.C. 5962(b)(2)) by striking "10 percent" and inserting "5 percent."

The Senate recedes.

83. The Senate amendment provides that from the amount appropriated pursuant to the authority of subsection (f) for fiscal year 1994, the Secretary shall reserve a total of 1 percent to provide assistance under this section to the outlying areas.

The House recedes with amendment reserving 1 percent to outlying areas and BIA.

84. The Senate amendment repeals Title II of the Education Council Act of 1991.

The House recedes.

85. The Senate amendment repeals Title IV of the Hawkins-Stafford Elementary and Secondary School Improvement Amendments of 1988.

The House recedes.

86. The Senate amendment repeals the Star Schools Program Assistance Act.

The House recedes.

87. The Senate amendment repeals the Fund for the Improvement and Reform of Schools and Teaching Act.

The House recedes.

88. The Senate amendment makes amendments to Title II of the Technology-Related Assistance for Individuals with Disabilities Act of 1988.

The House recedes.

89. The Senate amendment amends Title II of the Dept. of Ed Organization Act by adding provisions for an Office of Indian Education.

The Senate recedes.

90. The Senate amendment amends Title XI of the Higher Education Act of 1965 by including provisions regarding rural community service.

The Senate recedes.

92. The Senate amendment amends the Carl D. Perkins Vocational and Applied Technology Education Act.

The House recedes.

93. The Senate amendment makes technical amendments to section 101A, striking "and Palau" and all that follows through the

end of the subsection, and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau." This provision states that the set-aside for the outlying areas shall include these regions listed here.

The House recedes.

94. The Senate amendment amends the Second Morrill Act.

The House recedes.

95. The Senate amendment amends section 312 of the Higher Ed Act of 1965.

The House recedes with an amendment:

The House recedes with an amendment to strike the special definition of a "state" contained in the Senate amendment and add to section 312(b)(1)(C) of the Higher Education Act the names of the three institutions in the Freely Associated States (College of the Marshall Islands, College of Micronesia/Federate States of Micronesia, and Palau Community College).

96. The Senate amendment further amends the McKinney Homeless Assistance Act Regarding the Family Support Center Program.

The House recedes.

97. The Senate amendment amends the National Foundation on the Arts and the Humanities Act of 1965, increasing the authorization level to \$100,000.

The House recedes.

98. The Senate amendment amends the Library Services and Construction Act. The House recedes. The Senate amendment effectively extends the Library Services and Construction Act for an additional fiscal year.

The House recedes.

99. The Senate amendment amends Section 315 of Goals 2000: Educate America Act with respect to the Bureau of Indian Affairs.

The House recedes.

100. The Senate amendment includes a part G covering cross references and conforming amendments.

Legislative Counsel.

##### "Community School Partnership Act"

1. The Senate amendment, but not the House bill, authorizes the "Community School Partnership Act". This amendment provides a 1-year, \$10 million authorization of appropriations to enable the Secretary of Education to make an endowment grant to a national nonprofit organization to promote higher education goals for students from low income families through the development of local affiliated chapters in high-poverty areas.

The House recedes with an amendment to strike "the presence of any mental, sensory, or physical" in Section 8943(2)(E) of the Senate amendment and, in Section 8947 of the Senate amendment, to strike "1995" and insert "1996".

##### Technical Amendments to the Carl D. Perkins Vocational and Applied Technology Education Act

2. The Senate amendment, but not the House bill, restores the definition of the term "institution of higher education" for purposes of the Perkins Act as it applied prior to passage of the Higher Education Amendments of 1992. The amendment permits a State that previously distributed FY94 funds to proprietary institutions of higher education, however, to continue to distribute such funds to those institutions until July 1, 1995.

The House recedes.

3. The Senate amendment, but not the House bill, clarifies the eligibility of institutions in the Freely Associated States, formerly "Trust Territory of the Pacific Islands," for vocational education programs.

The House recedes with an amendment to substitute for the language of the Senate amendment a technical clarification of Section 101A of the Carl D. Perkins Vocational and Applied Technology Education Act updating the statutory reference to the Republic of Palau, formerly Palau, and Pacific Region Educational Laboratory (PREL), formerly the Center for Advancement of Pacific Education (CAPE).

##### Technical Amendment to the Second Morrill Act

4. The Senate amendment, but not the House bill clarifies the continued land grant status for the three institutions of higher education located in the successor governments of the former Trust Territory of the Pacific Islands (the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau).

The House recedes.

##### Technical Amendments to the Higher Education Act

5. The Senate amendment, but not the House bill, amends Section 312 of the Act to clarify the eligibility of institutions in the Freely Associated States for Title III programs by adding to that section a special definition of a "state" for the purposes of Part A of Title III of the Act.

The House recedes with an amendment to strike the special definition of a "state" contained in the Senate amendment and add to Section 312(b)(1)(C) of the Higher Education Act the names of the three institutions in the Freely Associated States (College of the Marshall Islands, College of Micronesia/Federated States of Micronesia, and Palau Community College).

6. The Senate amendment, but not the House bill, amends Section 404G of the Act to eliminate the funding trigger for the National Early Intervention Scholarship and Partnership Program.

The House recedes.

7. The Senate amendment, but not the House bill, makes a conforming change to Section 428(c)(1) of the Act to remove Lender-of-Last-Resort loans from the calculation of a guaranty agency's reinsurance "trigger" rate.

The House recedes.

8. The Senate amendment, but not the House bill, amends Section 428C of the Act to allow the inclusion of HHS nursing loans in the HEA, Title IV Consolidation Loan Program.

The House recedes.

9. The Senate amendment, but not the House bill, amends Section 439 of the Act to increase from 15% to 30% the current restriction on the value of transactions that the Student Loan Marketing Association may enter into which involve student and faculty housing. The Senate amendment also expands the category of student and faculty housing to include athletic facilities, dining halls, and student unions.

The House recedes with an amendment to strike "athletic facilities" and insert "facilities generally open for promoting fitness and health for students, faculty, and staff or for physical education courses".

10. The Senate amendment, but not the House bill, amends Part G of Title IV of the Act to exempt public and private, nonprofit nursing schools that award a diploma, rather than a degree, from the clock-credit hour conversion formula for the purposes of calculating eligibility for Title IV assistance.

The House recedes.

11. The Senate amendment, but not the House bill, amends Section 484(j) of the Act

to clarify the eligibility of citizens of the Freely Associated States, formerly the Trust Territory of the Pacific Islands, for the Pell Grant, TRIO, FSEOG, SSIG, Robert C. Byrd Honors Scholarship Program, and Federal Work Study programs.

The House recedes with an amendment to strike from the language of the Senate amendment "subparts 1, 2, 3, 4, and 6 of part A, . . ." and insert "subpart 1, chapter 1 of subpart 2, subpart 3, and subpart 6 or part A, . . .", thereby striking the reference to SSIG and restricting to chapter 1 TRIO programs such eligibility under subpart 2 of Title IV of the Higher Education Act.

12. The Senate amendment, but not the House bill, amends Section 723 of the Act to allow a participating institution's escrow funds to be returned when it repays its loan(s) made under this part, as opposed to when all loans made to all institutions under this part are retired.

The House recedes with an amendment to clarify that an eligible institution is required to maintain in escrow an amount equal to, but not in excess of, 10 percent of its own outstanding principal.

13. The Senate amendment, but not the House bill, amends Section 435(o) of the Act to allow borrowers with a 20 percent or greater federal education debt to disposable income ratio, to obtain an "economic hardship deferment" for a maximum of 3 years on their subsidized Title IV student loans (Stafford and FISL loans).

The House recedes with an amendment rewriting the additional criterion for economic hardship deferments to provide such deferments for borrowers whose federal education debt burden equals or exceeds 20 percent of their adjusted gross income (AGI) and whose AGI, minus federal education debt burden, is less than 220 percent of the poverty level measurement specified in the Department of Education's final regulations of June 29, 1994, pertaining to the "economic hardship" deferment.

The Managers adopted this provision to clarify the meaning of the term "economic hardship." Our action should not be interpreted as a change in the course of action we took regarding student loan deferments in the 1992 Higher Education Amendments. Those amendments eliminated categorical deferments for subsidized Title IV Loans, and we continue to support this policy.

The 1992 Higher Education Amendments directed the Secretary of Education to consider income and debt-to-income ratio as primary factors in developing criteria to determine borrower eligibility for the "economic hardship" deferment. Although the Secretary's Notice of Proposed Rulemaking did take into account a borrower's debt-to-income ratio as specified by Section 435(o)(2) of the Higher Education Act as amended, the final regulation does not do so. The Managers, therefore, agreed to language to clarify that borrowers with a very significant federal education debt burden, relative to their level of income, are considered to have an "economic hardship."

In implementing this language, the Managers intend that "federal education debt burden", as used in this amendment to Section 435(o) of the Act, shall consist of the annual total payments a borrower would be expected to make on all his federal education loans pursuant to a standard 10-year repayment schedule.

14. The Senate amendment, but not the House Bill, amends Section 1544 of the Higher Education Amendments of 1992 to permit institutions that practice need-blind admis-

sions to voluntarily agree with other such institutions to: award non-federal HEA financial aid to students only on the basis of demonstrated financial need, determine student financial aid for non-federal HEA aid on common principles of need analysis, use common aid application forms for non-federal HEA aid, and exchange through an independent 3rd party certain financial data on commonly admitted applicants. The Senate amendment does not waive any requirements or obligations imposed under HEA nor does it affect any pending litigation. The provision sunsets on September 30, 1999.

This provision extends for an additional three years the temporary antitrust exemption for certain collegiate financial aid award analysis, which was originally enacted with the Higher Education Amendments of 1992 as a two-year exemption. The temporary exemption has also been revised in light of the "standards of conduct" adopted as part of the settlement of the antitrust action between the Department of Justice and Massachusetts Institute of Technology in the case of *United States v. Brown University, et al.*, Civ. Action No. 91-3274 (E.D. Pa.), on December 22, 1993.

As revised, the temporary exemption applies only to institutions of higher education that admit students on a need-blind basis. The definition of "on a need-blind basis" in subsection (c)(6) is based on language in the "standards of conduct" adopted in the MIT settlement. See also *United States v. Brown University*, 5 F.3d 658(1993).

The managers have decided against elaborating on the need-blind admissions standard in the statutory text. As should be obvious, however, evidence of a practice among admissions personnel at an institution of higher education of examining, discussing, or otherwise considering information relating to a student's financial circumstances that is derived from such student's financial aid application form, or from any other document or record obtained for the purpose of ascertaining such financial circumstances, before the decision is made regarding the student's admission will substantially increase the institution's burden of demonstrating that the school's admissions policy is truly need-blind. Prudence would counsel that schools wishing to make use of this provision insulate their admissions, process and admissions personnel as completely as possible from such student financial aid information, until after the admissions process is complete.

The term "principles of need analysis" in subsection (a)(2) has been substituted for the term "principles of professional judgment" in the earlier provision, and the inclusion of limited exchange of data specified in subsection (a)(4) has been added, in light of the "standards of conduct" adopted in the MIT settlement.

The sunset provision has been extended to September 30, 1997. While the Managers have decided to continue a temporary exemption for this limited period, it is expected that the exemption will not be extended further. Upon the expiration of this extension, those who support extending the exemption must meet the burden of demonstrating that it is truly needed in order to advance the generally pro-competitive goal of enhancing access by needy students to higher education.

15. The Senate amendment, but not the House bill, amends Section 455(f) of the Act to clarify that "old borrowers" (those who took out their first Title IV loan prior to July 1, 1993), who take out a Title IV, Part D loan will be eligible for the same deferment

opportunities on such Part D loans as will "old borrowers" who take out additional Title IV, Part B loans.

The House recedes.

#### *Equity in Athletics Disclosure Act*

16. The Senate amendment, but not the House bill, authorizes the "Equity in Athletics Disclosure Act". This amendment to Section 485 of the Higher Education Act requires each institution that participates in Title IV student aid programs, and has an intercollegiate athletic program, to submit to the Secretary of Education an annual report detailing its expenditures for each of its sports teams, differentiating between the levels of participation and expenditures for its men's, women's, and coeducational teams. The amendment further requires that these expenditures be broken down into various specific categories and that, upon request, the information gathering pursuant to this new authority be disclosed to prospective students and to the public. The amendment requires the Secretary to compile and publish this information, breaking it down by both institution and athletic conference, in an annual report, the first of which is to be issued on or before July 1, 1995. The effective date of the amendment is July 1, 1994.

The House recedes with an amendment eliminating the requirement that institutions submit an annual report to the Secretary of Education. The amendment adds language requiring the Secretary to issue final regulations to eliminate the gender equity provisions within 180 days after enactment of this subsection. Each coeducational institution with an intercollegiate athletic program must, upon request, make available to prospective students, students, and the public its first annual report pertaining to its men's and women's varsity sports teams no later than October 1, 1995.

The House amendment modifies the Senate amendment's definition of "operating expenses" and requires that institutions report each team's total annual "operating expenses". The House amendment allows institutions to, at their discretion, additionally report team operating expenses on a per capita basis. The House amendment also permits institutions to report revenues generated on an individual team basis, in addition to the mandatory reporting of revenues generated across all men's sports and revenues generated across all women's sports.

In developing regulations to implement the gender equity in athletics provisions, the Managers intend that the Secretary ensure that those institutions electing to include the optional reporting elements of per capita operating expenses by team and individual team revenues do so alongside of the total team operating expenses and the total team revenues aggregated by gender, respectively, as required pursuant to (g)(1)(B)(ii) and (g)(1)(F). The Managers agree that these additional reporting elements are to be included at the discretion of the individual institution.

#### *Equity in Educational Land-Grant Status Act of 1994*

17. The Senate amendment, but not the House bill, authorizes the "Equity in Educational Land-Grant Status Act of 1994" to establish land-grant college status for 29 Native American institutions of higher education. For each of fiscal years 1996-2000, the amendment authorizes \$4.6 million to establish an endowment fund for the "1994 Institutions" and \$1.7 million for institutional capacity building grants. The amendment also authorizes \$6.45 million under existing land-

grant program authorities for FY96 and for each fiscal year thereafter for the "1994 Institutions."

The House recedes with an amendment to strike "research" and insert "instructional activities".

The conferees in recognition of the distinguished service of William D. Ford agree to re-name the Federal Direct Student Loan Program the William D. Ford Federal Direct Student Loan program, and that henceforth such direct loans shall be called Stafford-Ford Loans. In conferring this honor, the conferees are fully aware that the Department of Education has numerous printed forms and materials referring to the current program. The conferees, therefore, intend that the Department and direct loan program participants continue to use existing materials and forms until they are exhausted, but that any new programs and materials that are prepared and printed after the effective date of this legislation shall bear designation of the program as the William D. Ford Federal Direct Student Loan Program and refer to such loans as Stafford-Ford loans.

#### IASA TITLE IV—NATIONAL EDUCATION STATISTICS

1. The House bill places the National Education Statistics Act as Title IV of the Improving America's Schools Act; the Senate amendment places it as Title XIV of ESEA. The Senate recedes.

#### Findings; Purpose; Definitions

2. The House bill, but not the Senate amendment, defines various terms because the National Education Statistics Act is freestanding and not part of ESEA.

The Senate recedes.

3. The House bill defines "United States" and "State" to, for the purposes of the NAEP assessment to mean the 50 states, the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Marianas and the Republic of Palau (until the effective date of the Compact of Free Association with the Government of Palau); the Senate amendment defines "State" and "United States" to mean the 50 states, D.C., Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Marianas, the Republic of the Marshall Islands, the Federated States of Micronesia, and Palau.

The House recedes with an amendment clarifying that the definition in subparagraph (B) includes the language in subparagraph (A).

#### Duties of the National Center for Education Statistics

4. The House bill, but not the Senate amendment, provides that the duties are to collect statistics on the condition of education at the preschool, elementary, secondary, and postsecondary level.

The Senate recedes.

5. The House bill says in subparagraph (B) that data should be collected "at all levels of education, and includes "out of school youth and adults in subparagraph (C);" the Senate amendment in subparagraph (B) says "including data on secondary school completions, dropouts, and adult literacy, which education statistics and data, whenever feasible, shall be collected, analyzed, cross-tabulated and reported by sex, race or ethnicity, and socioeconomic status."

The Senate recedes with an amendment including "secondary school completions, dropouts, and adult literacy".

6. The Senate amendment, but not the House bill, includes data on educational ac-

cess and opportunity, including data on financial aid to postsecondary students.

The House recedes with an amendment inserting postsecondary education.

7. The House bill includes data on teachers, administrators, counselors, and other educational personnel at all levels of education, including the supply and demand for such teachers; the Senate amendment includes data on teaching, including curriculum, instruction, the conditions of the education workplace, and the supply and demand for teachers, which may include data on the proportions of women and men cross-tabulated by race or ethnicity, teaching in subjects in which such individuals have been historically underrepresented.

The House recedes with an amendment changing "curriculum" to "course-taking".

8. The House bill includes data on the learning and teaching environment including the nature and incidence of violence affecting students, school personnel, and other individuals participating in school activities; the Senate amendment included data the learning environment, and on libraries, the incidence of crime, violence, and substance abuse.

The House recedes with an amendment combining the two provisions.

9. The House bill, but not the Senate amendment, includes data on violence against teachers and students and other indices of school safety.

The Senate recedes with an amendment combining the provisions.

10. The Senate amendment, but not the House bill, includes data on revenues and expenditures.

The House recedes.

11. The House bill says collecting, analyzing, cross-tabulating, and reporting to the extent feasible so as to provide information by gender, race, socioeconomic status, limited-English proficiency, and other population characteristics when such information would facilitate decisionmaking; the Senate amendment has a subsection heading, and states the Center shall ensure that data in subsection (a)(1) whenever feasible, are collected by race, ethnicity, and socioeconomic status.

The Senate recedes.

#### Performance of Duties

12. The Senate amendment, but not the House bill, provides a time limit for grants, contracts, and cooperative agreements.

The House recedes.

13. The House bill, but not the Senate amendment, refers to "public and private" schools and "preschools".

The Senate recedes.

#### Advisory Council on Education Statistics

14. The House bill provides for a 18 member council appointed on the basis of their experience "within the field" with practicing educators at the preschool, elementary, or secondary school level, and 3 experts in educational measurement; the Senate amendment provides for a 15 member council appointed on the basis of their experience "within the field of education statistics", with 3 educators and a paragraph heading.

The Senate recedes with an amendment striking "at the preschool, elementary, or secondary level".

15. The House bill, but not the Senate amendment, provides for 3 individuals representing the public.

The Senate recedes.

16. The House bill requires the Commissioner to appoint the presiding officer; the Senate amendment requires the Secretary to

appoint the presiding officer and entitles the paragraph "Presiding Officer".

The Senate recedes.

17. The House amendment says six members; the Senate amendment says 5 members and includes a paragraph heading.

The Senate recedes.

18. The House bill says the council shall meet in public session at the call of the presiding officer and whenever 10 members request a meeting; the Senate amendment has a paragraph heading, and says that the council shall meet at the call of the presiding officer and whenever 8 members requesting a meeting.

The Senate recedes.

19. The House bill says that 11 members constitute a quorum; the Senate amendment says 9 members constitute a quorum and has a subparagraph heading.

The Senate recedes.

20. The House bill, but not the Senate amendment, says that the Council shall advise the Commissioner and National Assessment Governing Board on matters related to the National Assessment.

The Senate recedes with an amendment clarifying that the advice is on technical and statistical matters.

21. The House bill, but not the Senate amendment, provides that the council shall appoint a staff.

The Senate recedes with an amendment providing that the staff shall consist of not more than 6 individuals with technical expertise.

#### Confidentiality

22. The House bill, but not the Senate amendment, provides that no collection of information and data to review except as required by OMB.

The Senate recedes.

#### Dissemination

23. The House bill says funds for work in this paragraph "shall be deposited in a separate account that may be used to pay"; the Senate amendment says funds for work in this subsection "may be used for the fiscal year for which such funds are received to pay" and has a paragraph heading.

The House recedes with an amendment striking "for the fiscal year for which such funds are received".

24. The House bill says the Center shall cooperate with other federal agencies; the Senate amendment says the Center shall, consistent with section 14008, participate with other federal agencies, and has a subsection heading.

The Senate recedes with an amendment ensuring that this provision is administered consistent with the provisions of section 408.

25. The House bill says the Commissioner shall establish 1 or more national cooperative education statistics systems; the Senate says the Commissioner may establish such systems.

The House recedes.

26. The Senate amendment, but not the House bill, authorizes a model data system to yield information about spending for administration at the school and local educational agency level and directs the Secretary to report to the Congress on several factors relating to the potential to reduce such administrative costs.

The House recedes with an amendment striking the required study and report.

#### National Assessment of Educational Progress

27. The House bill provides that the Commissioner shall carry out a national assessment with the advice of the Council established by section 407 and says (the National

Assessment); the Senate amendment says with the advice of the National Assessment Governing Board established under section 14012 and says (hereafter in this part referred to as the National Assessment).

The House recedes with an amendment combining the provisions.

28. The House bill, but not the Senate amendment, says that data is collected on students in public and private schools.

The Senate recedes.

29. The House bill says to include information on special groups; the Senate amendment says to include, whenever feasible, information collected, cross-tabulated, analyzed and reported by sex, race or ethnicity and socioeconomic status.

The House recedes with an amendment combining the provisions.

30. The Senate amendment, but not the House bill, says to collect and report data on students receiving services under part A of Title I.

The Senate recedes.

31. The House bill, but not the Senate amendment, provides that state assessments be conducted on a trial basis.

The Senate recedes with an amendment changing "trial" to "developmental" and providing the State assessments will be developmental until the Commissioner, based on evaluation results, determines that they produce high quality data that is valid and reliable.

32. The House bill says the Commissioner may decline to make cognitive questions available to the public; the Senate amendment says the Secretary may do this and has a subparagraph heading.

The Senate recedes.

33. The House bill, but not the Senate amendment, says the Commissioner may make test instruments available for assessments at the local educational agency level if requested by any State educational agency or local educational agency and only in a limited number of cases.

The House recedes.

34. The House bill, but not the Senate amendment, says participation by a local educational agency shall be voluntary.

The House recedes.

35. The House bill, but not the Senate amendment, says that a local educational agency must provide a written statement of concurrence for participating in local assessments.

The House recedes.

36. The House bill, but not the Senate amendment, requires that an agency give assurances to the Commissioner.

The House recedes.

37. The House bill says the Commissioner shall enter into agreements with states; the Senate amendment says the Secretary shall enter into agreements and has a paragraph heading.

The Senate recedes.

38. The House bill, but not the Senate amendment, provides that the non-federal share shall include the analysis and reporting of the data; the Senate amendment has paragraph and subparagraph headings.

The House recedes with an amendment adding analysis and reporting costs as examples of the reasonable costs associated with the non-Federal share.

39. The House bill, but not the Senate amendment, says that the implementation of subparagraph (C) shall involve no costs to the federal government.

The House recedes.

40. The House bill, but not the Senate amendment, says the National Assessment

Governing Board working with the Assistant Secretary shall develop student performance levels, and that the Commissioner, with the advice of the Council, establish standards for the evaluation of the levels.

The Senate recedes with an amendment striking "working with the Assistant Secretary" and the provision requiring the Commissioner to develop evaluation standards.

41. The House bill, but not the Senate amendment, says that the levels shall be devised through a consensus approach, used on a trial basis, updated as appropriate, and reported separately from the national assessment when used on a trial basis.

The Senate recedes with an amendment changing "trial" to "developmental" and providing that the Commissioner and the Board shall ensure that reports that use the developmental student performance levels do so in a manner that makes clear their developmental status.

42. The House bill, but not the Senate amendment, says that after determining the levels are reasonable, valid, and informative to the public, the Commissioner may use them in reporting the results of the National Assessment and State assessments.

The Senate recedes with an amendment (i) clarifying that the Commissioner determines their reasonableness, validity, and informative value through an evaluation under subsection (f), and (ii) providing that once the Commissioner has made this determination, the Commissioner shall use the levels to report NAEP results.

43. The House bill provides that the Commissioner shall provide for review by the National Academy of Education or the National Academy of Sciences of national, state, and local assessments, including each trial state assessment, and student performance levels, and describes factors to be reviewed in the trial state assessments; the Senate amendment says the Secretary shall provide for the review of national and state assessments and does not specify the entities to carry it out.

The House recedes with an amendment (i) including developmental student performance levels, and (ii) providing that the evaluations are to be performed by one or more nationally recognized evaluation organizations such as the National Academy of Education and the National Academy of Sciences.

#### National Assessment Governing Board

44. The Senate amendment, but not the House bill, says that the testing and measurement experts shall have training and experience in the field of testing and measurement.

The House recedes.

45. The House bills says the Secretary shall ensure the membership of the Board reflects regional, racial, gender, and cultural diversity and balance; the Senate amendment says the Secretary and Board shall ensure this, that the Board exercises independent judgment, free from inappropriate influences and special interests, and has a paragraph heading.

The House recedes.

46. The House bill limits terms to 3-years and no member may serve more than 2 consecutive terms; the Senate amendment limits service to one 4-year term.

The Senate recedes with an amendment limiting service to not more than two 3-year terms.

47. The House bill says that the Secretary shall fill vacancies after soliciting recommendations from a variety of organizations including those representing the types of individuals on the Board, and in a manner

that maintains the composition and diversity of the Board; the Senate amendment says the Secretary shall fill vacancies from individuals recommended by the Board which shall nominate 3 people for each vacancy.

The Senate recedes with an amendment providing that (i) nominees will be supplied by organizations representing the types of individuals needed to fill the vacancy, (ii) each group will nominate 6 people for each vacancy, (iii) the Secretary, in making appointments, will maintain the composition, diversity, and balance of the Board, and (iv) the Secretary may request that each organization submit additional nominees if the Secretary determines that none of the individuals nominated by such organization has appropriate experience.

48. The House bill says the Board, working with the Assistant Secretary, shall develop student performance levels; the Senate amendment says in carrying out its functions under this section the Board shall identify appropriate achievement goals.

The Senate recedes with an amendment striking the requirement that the Board work with the Assistant Secretary.

49. The House bill says that assessment objectives and tests specifications shall be developed through a national consensus approach; the Senate amendment says that each learning area assessment shall have goal statements devised through a national consensus approach.

The Senate recedes.

50. The Senate amendment, but not the House bill, says the Board shall select subject areas to be assessed, design the methodology of the assessment, and develop standards and procedures for comparisons.

The House recedes with an amendment providing that the Board shall design the methodology of the assessment in consultation with appropriate technical experts including the Advisory Council on Education Statistics.

51. The House bill says recommendations for actions are needed to improve the National Assessment; the Senate amendment says take appropriate actions needed to improve the Assessment.

The House recedes.

52. The Senate amendment, but not the House bill, says the Board may delegate certain functions to its staff.

The House recedes.

53. The Senate amendment, but not the House bill, says the Board shall have final authority on the appropriateness of cognitive items.

The House recedes.

54. The House bill says the Board working with the Commissioner shall take steps to ensure items are free from bias; the Senate amendment says the Board shall take steps to ensure items are free from bias.

The Senate recedes with an amendment striking the requirement that the Board work with the Commissioner in ensuring that items used in the National Assessment are free of bias.

55. The House bill, but not the Senate amendment, says the Board shall seek technical advice from the Commissioner and Advisory Council.

The Senate recedes with an amendment providing that the Board "may" seek technical advice from the Advisory Council and includes "other experts."

56. The House bill, but not the Senate amendment, says the Board shall report on steps it is taking to respond to recommendations of the evaluations of the student performance levels.

The Senate recedes.

57. The Senate amendment, but not the House bill, says that the Board shall be independent of the Secretary and the Department.

The House recedes.

58. The House bill allows the Secretary to appoint staff at the request of the Board "as will enable the Board to carry out its responsibilities"; the Senate amendment allows the Secretary to appoint staff at the direction of the Board "as the Board requires."

The Senate recedes with an amendment striking the reference to subsection (e)(1).

59. The House bill refers to "not more than 6 technical employees"; the Senate amendment refers to "not more than 6 technical employees to administer this subsection."

The Senate recedes.

60. The House bill says the Commissioner and Board shall meet to coordinate their duties and activities relating to the National Assessment; the Senate amendment says the Commissioner shall report to the Board on Department actions to implement the Board's decisions.

The Senate recedes with an amendment combining the provisions.

61. The House bill says that only sections 10, 11, and 12 of Federal Advisory Committee Act shall apply to the Board; the Senate amendment says the Board shall have the authorities authorized by the Federal Advisory Committee Act and be subject to its open meeting provisions.

The Senate recedes.

62. The House bill, but not the Senate amendment, says that no member or employee of the Board may lobby on legislation except when a representative of the Board has been requested to testify, and establishes penalties for violations of this provision.

The House recedes.

#### Authorization of Appropriations

63. The House bill authorizes \$103,200,000 for fiscal year 1995 and such sums for fiscal years 1996 through 1999 for this title except for section 412; the Senate amendment authorizes \$100 million for fiscal year 1995 and such sums for each of the 4 succeeding fiscal years.

The House recedes with an amendment authorizing (i) \$65 million for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years for NCEES, and (ii) \$35 million for fiscal year 1995 and such sums as may be necessary for the succeeding two fiscal years for NAEP.

64. The House bill authorizes \$2 million for fiscal years 1995 and 1996 for section 412; the Senate amendment says not more than 10 percent of the funds available for the National Assessment may be used for the National Assessment Governing Board and has a subsection and paragraph heading.

The Senate recedes with an amendment and authorizes \$3 million for fiscal years 1995, and such sums as may be necessary for each of the two succeeding fiscal years.

#### IASA TITLE V—MISCELLANEOUS PROVISIONS

The Senate amendment, but not the House bill, provides that, in documents transmitted to Congress explaining the President's budget request for the Special Education account, the Department of Education shall display amounts included in the request to offset the termination of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 by the Improving America's Schools Act of 1994.

The House recedes.

1. The House bill, but not the Senate amendment, requires that the Secretary con-

duct an evaluation of how the federal government has assisted the states to reform their educational systems, through the various education laws enacted during the 103rd Congress.

The House recedes.

#### Budget Compliance

2. The House bill, but not the Senate amendment, says that any authority or requirement to make funds available under this Act shall be effective only to the extent provided in appropriations Acts.

The Senate recedes.

#### Parental Involvement

3. The Senate amendment, but not the House bill, declares that it is the policy of the Congress that states, in cooperation with LEAs, schools, and parents' groups, should be encouraged to involve parents of children who display criminal or violent behavior at school in disciplinary actions affecting such children.

The Senate recedes.

#### Grants to States for Workplace and Community Transition Training for Incarcerated Youth Offenders

4. The Senate amendment, but not the House bill, establishes a program to provide grants to states to assist and encourage incarcerated youths to acquire literacy, life, and job skills through the pursuit of education while in prison and on parole.

The House recedes with amendments to insert "education" between "State correction" and "agency" and insert "for each eligible student" after "State" in paragraph (e)(3) and change the authorization from \$18 million to \$5 million.

#### Criminal History Investigations of School Bus Drivers

5. The Senate amendment, but not the House bill, requires that notwithstanding any other provision of law, an LEA may not employ a school bus driver until the LEA conducts a background check of the driver. The background check must meet the guidelines of section 3(b) of the National Child Protection Act of 1993.

The Senate recedes.

#### Rate of Pay for the Deputy Director of the National Institute on Disability and Rehabilitation Research

6. The Senate amendment, but not the House bill, allows the Secretary to compensate anyone appointed during 1994 to be Deputy Director of the National Institute on Disability and Rehabilitation Research at level 5 of the Senior Executive Services Schedule.

The House recedes.

7. The Senate amendment, but not the House bill, includes a title called "Workers Technology Skill Development."

The House recedes with amendments to section 505(c) clarifying that in the development and dissemination of materials, the grant recipient could include information dealing with labor-management cooperation as well as the involvement of workers in designing new workplace practices.

8. Community School Partnerships. The Senate amendment authorizes the Secretary to competitively award an endowment grant to a national organization to enable such organization to support the establishment of area program centers that foster the development of local affiliated chapters in high-poverty areas which work to improve high-school graduation rates and postsecondary attendance through scholarship and other support services.

The House recedes.

#### Albert Einstein Distinguished Educator Fellowship Act

The Senate amendment establishes the "Albert Einstein Distinguished Educator Fellowship Act of 1994."

The House recedes.

#### Waste Management Education Research Consortium (WEREC)

1. The Senate amendment authorizes the Secretary to establish a partnership of Department of Energy laboratories, academic institutions, and private sector industries to conduct environmentally related education programs, including programs involving environmentally conscious manufacturing and waste management activities that have undergraduate and graduate educational training as a component.

The House recedes.

The Senate amendment establishes "The Multi-Ethnic Placement Act of 1994", the purpose of which is to decrease the length of time that children wait to be adopted, to prevent discrimination in the placement of children on the basis of race, color or national origin, and to facilitate the identification and recruitment of foster and adoptive families that can meet children's needs.

The House recedes with amendments replacing references to "racial identity needs" with "racial background" and requiring an agency to comply with this subtitle not later than 6 months after publication of the guidance referred to in subsection (c), or 1 year after enactment, whichever is sooner.

#### MULTIETHNIC PLACEMENT

##### Subtitle A—Multiethnic Placement

#### Multiethnic Foster Care and Adoption Placements

Title VI of the Civil Rights Act of 1964 provides that programs that receive federal funds cannot discriminate on the basis of race, color, or national origin. Although race, color, or national origin may not be used as a basis for providing benefits or services, the federal policy guidelines that interpret Title VI's meaning in the context of adoption and foster care permit officials to consider these factors in making placements. The guidelines state that: "In placing a child in an adoptive or foster home it may be appropriate to consider race, color, or national origin as one of several factors . . . This policy is based on unique aspects of the relationship between a child and his or her adoptive or foster parent. It should not be construed as applicable to any other child welfare or human services area covered by Title VI."

##### Subtitle B—Other Provision

#### Effect of Failure to Carry Out State Plan

The "State plan" titles of the Social Security Act include Aid to Families with Dependent Children (AFDC) (Title IV-A), Child Welfare Services (Title IV-B), Child Support and Establishment of Paternity (Title IV-D), Foster Care and Adoption Assistance (Title IV-E), Job Opportunities and Basic Skills Training (JOBS) (Title IV-F), and Medicaid (Title XIX). Under these titles, as a precondition of funding, each participating State is required to develop a written "State plan" that meets certain statutory requirements in order to be approved by the Secretary of the Department of Health and Human Services (HHS).

The Adoption Assistance and Child Welfare Act of 1980 amended the Social Security Act to require States to provide in their Title IV-E plans that, in the case of each child, reasonable efforts will be made (a) prior to the placement of the child in foster care, to

prevent or eliminate the need for removal of the child from his home, and (b) to make it possible for the child to return to his home (sec. 471(a)(15)).

On March 25, 1992, the U.S. Supreme Court held in *Suter v. Artist M.*, that the "reasonable efforts" clause does not confer a federally-enforceable right on its beneficiaries, nor does it create an implied cause of action on their behalf. In rendering its opinion, the Court also stated that although section 471(a) does place a requirement on the States, that requirement "only goes so far as to ensure that the States have a plan approved by the Secretary which contains the 16 listed features."

#### House Bill

No provision.

#### Senate Amendment

The official title of the Senate Amendment is the Multiethnic Placement Act of 1994. The stated purpose of the Multiethnic Placement Act is to decrease the length of time that children wait to be adopted and to prevent discrimination in the placement of children on the basis of race, color or national origin. It has the following provisions:

#### Prohibition

Agencies or entities receiving Federal funds who are involved in adoption or foster care placements may not, solely on the basis of the race, color, or national origin of the adoptive or foster parent, or the child, involved: (1) categorically deny to any person the opportunity to become an adoptive or foster parent, or (2) delay or deny the placement of a child for adoption or into foster care, or otherwise discriminate in making a placement decision.

#### Permissible Consideration

Any agency or entity may consider the race, color or national origin of child as a factor in making a placement decision if the factor is relevant to the best interests of the child involved and is considered in conjunction with other factors.

#### Definition

The term "placement decision" means the decision to place, or to delay or deny the placement of, a child in a foster care or an adoptive home, and includes the decision of the agency or entity involved to seek the termination of birth parent rights or otherwise make a child legally available for adoptive placement.

#### Limitation

The Secretary of HHS is prohibited from providing funds under Title IV-E of the Social Security Act for placement and administrative expenditures to any agency or entity that is not in compliance with the anti-discrimination policy outlined above.

#### Equitable Relief

The Act would provide a right to bring an action seeking relief in U.S. district court to any individual who is aggrieved by a violation of the anti-discrimination policy outlined above.

#### Construction

Nothing in the Multiethnic Placement Act shall be construed to affect the application of the Indian Child Welfare Act.

#### CONFERENCE AGREEMENT

#### Subtitle A—Multiethnic Placement

#### Multiethnic Foster Care and Adoption Placements

The conference agreement follows the Senate amendment with the following modifications:

#### Purpose

Change the purpose to read: It is the purpose of this Act to promote the best interests of children by: (1) decreasing the length of time that children wait to be adopted; (2) preventing discrimination in the placement of children on the basis of race, color, or national origin; and (3) facilitating the identification and recruitment of foster and adoptive families that can meet children's needs.

#### Permissible Consideration

Change permissible consideration to read: An agency or entity to which the prohibition against discrimination applies may consider the cultural, ethnic, or racial background of the child and the capacity of the prospective foster or adoptive parents to meet the needs of the child of this background as one of a number of factors used to determine the best interests of a child.

#### Limitation

Substitute the following language: Non-compliance with this Act constitutes a violation of Title VI of the Civil Rights Act of 1964.

#### Amendment to Title IV-B Child Welfare Services program

Add the following Title IV-B State plan requirement: The State plan must provide for the diligent recruitment of potential foster and adoptive families that reflect the ethnic and racial diversity of children in the State for whom foster and adoptive homes are needed.

#### Federal Guidance and Deadline for Compliance

Add the following: Not later than 6 months after enactment the Secretary of HHS must publish guidance to concerned public and private agencies and entities with respect to compliance with the Multiethnic Placement Act. An agency or entity that receives Federal assistance and is involved with adoption or foster care placements shall comply not later than 6 months after publication of guidance or 1 year after enactment, whichever is sooner. In cases where a State demonstrates to the Secretary's satisfaction that a particular practice cannot be changed without amending State law, the Secretary may extend the compliance date for such State a reasonable number of days after the closing of the first State legislative session beginning after the Federal guidance is published.

#### Subtitle B—Other Provision

#### Effect of Failure To Carry Out State Plan

The provision would amend Title XI of the Social Security Act by adding a new section that reads as follows: "In an action brought to enforce a provision of the Social Security Act, such provision is not to be deemed unenforceable because of its inclusion in a section of the Act requiring a State plan or specifying the required contents of a State plan. This section is not intended to limit or expand the grounds for determining the availability of private actions to enforce State plan requirements other than by overturning any such grounds applied in *Suter v. Artist M.*, 112 S. Ct. 1360 (1992), but not applied in prior Supreme Court decisions respecting such enforceability; provided, however, that this section is not intended to alter the holding in *Suter v. Artist M.* that section 471(a)(15) of the Act is not enforceable in a private right of action."

The intent of this provision is to assure that individuals who have been injured by a State's failure to comply with the Federal mandates of the State plan titles of the So-

cial Security Act are able to seek redress in the federal courts to the extent they were able to prior to the decision in *Suter v. Artist M.* while also making clear that there is no intent to overturn or reject the determination in *Suter* that the reasonable efforts clause to Title IV-E does not provide a basis for a private right of action.

The amendment would apply to actions pending on the date of enactment and to actions brought on or after the date of enactment.

For consideration of the House bill and the Senate amendment (except for sections 601-603 and 801-805):

WILLIAM D. FORD,  
GEORGE MILLER,  
DALE E. KILDEE,  
PAT WILLIAMS,  
MAJOR R. OWENS,  
TOM SAWYER,  
DONALD M. PAYNE,  
JOLENE UNSOELD,  
PATSY T. MINK,  
JACK REED,  
TIM ROEMER,  
ELIOT L. ENGEL,  
XAVIER BECERRA,  
GENE GREEN,  
LYNN C. WOOLSEY,  
CARLOS ROMERO-BARCELÓ,  
KARAN ENGLISH,  
TED STRICKLAND,  
ROBERT A. UNDERWOOD,

From the Committee on Education and Labor for consideration of sections 601-603 of the Senate amendment:

WILLIAM D. FORD,  
MAJOR R. OWENS,  
DONALD M. PAYNE,

From the Committee on Ways and Means for consideration of sections 601-603 of the Senate amendment:

SAM GIBBONS,  
HAROLD FORD,

From the Committee on Education and Labor for consideration of sections 801-805 of the Senate amendment:

WILLIAM D. FORD,  
PAT WILLIAMS,  
TOM SAWYER,

From the Committee on Agriculture for consideration of sections 801-805 of the Senate amendment:

KIKA DE LA GARZA,  
CHARLIE STENHOLM,  
PAT ROBERTS,

#### Managers on the Part of the House.

EDWARD M. KENNEDY,  
CLAIBORNE PELL,  
HOWARD M. METZENBAUM,  
CHRISTOPHER J. DODD,  
PAUL SIMON,  
TOM HARKIN,  
BARBARA A. MIKULSKI,  
JEFF BINGAMAN,  
PAUL WELLSTONE,  
HARRIS WOFFORD,  
NANCY LONDON  
KASSEBAUM,  
JAMES M. JEFFORDS,  
ORRIN HATCH,  
DAVE DURENBERGER,

#### Managers on the Part of the Senate.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. UNDERWOOD (at the request of Mr. GEPHARDT) for today through Monday, October 3, on account of official business.

Mrs. LLOYD (at the request of Mr. GEPHARDT) for today, on account of medical reasons.

Mr. MCNULTY (at the request of Mr. GEPHARDT) for today after 12 noon and the balance of the week, on account of personal business.

#### SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GOSS) to revise and extend their remarks and include extraneous material:)

Mr. WELDON, for 5 minutes, today.

Mr. GINGRICH, for 5 minutes today.

(The following Members (at the request of Ms. DELAURO) to revise and extend their remarks and include extraneous material:)

Ms. DELAURO, for 5 minutes, today.

Mr. HUGHES, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. DINGELL, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

#### EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. GOSS) and to include extraneous matter:)

Mr. KNOLLENBERG.

Mrs. ROUKEMA in two instances.

Mr. SCHAEFER.

Mr. KING.

Mr. OXLEY.

Mr. WELDON in three instances.

Mr. PETRI.

(The following Members (at the request of Ms. DELAURO) and to include extraneous matter:)

Mr. HOCHBRUECKNER.

Mr. LEVIN.

Mr. PETERSON of Minnesota.

Mr. LAFALCE.

Mr. KILDEE.

Mr. HAMILTON.

Mr. STOKES.

Mr. DEFAZIO.

Mr. BONIOR in three instances.

Mr. FROST.

Mr. HINCHEY.

Mrs. LLOYD.

Mr. UNDERWOOD.

Mr. DE LUGO.

Mr. FILNER.

(The following Members (at the request of Mr. BONIOR) and to include extraneous matter:)

Mr. NEAL of Massachusetts.

Mr. HOKE.

Mr. GEKAS.

Mr. OWENS.

Mr. PASTOR.

Mr. REYNOLDS.

Mr. KLEIN.

Mr. BROWN of Ohio.

Mr. YOUNG of Florida.

Ms. FURSE.

Mr. MENENDEZ.

Mr. GEPHARDT.

#### SENATE BILLS REFERRED

A bill and a concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2468. An act to permit the Secretary of Agriculture to make available certain amounts for FmHA farm ownership, operating, or emergency loans, and for other purposes; to the Committee on Agriculture.

S. Con. Res. 74. Concurrent resolution concerning the ban on the use of United States passports in Lebanon; to the Committee on Foreign Affairs.

#### ENROLLED BILLS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3839. An act to designate the United States Post Office building located at 220 South 40th Avenue in Hattiesburg, Mississippi, as the "Roy M. Wheat Post Office."

H.R. 4177. An act to designate the United States Post Office building located at 1601 Highway 35 in Middletown, New Jersey, as the "Candace White Post Office."

H.R. 4191. An act to designate the United States Post Office building located at 9630 Estate Thomas in Saint Thomas, Virgin Islands, as the "Aubrey C. Ottley Post Office."

H.R. 4554. 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.

H.R. 4569. An act to extend and make amendments to the President John F. Kennedy Assassination Records Collection Act of 1992.

H.R. 4606. An act making appropriations for the Department of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1995, and for other purposes.

H.R. 4624. An act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1995, and for other purposes.

#### SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 716. 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.

#### ADJOURNMENT

Mr. KILDEE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 28 minutes

p.m.), the House adjourned until tomorrow, Thursday, September 29, 1994, at 10 a.m.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3875. A communication from the President of the United States, transmitting his request to make available appropriations totaling \$14,505,000 in budget authority for the Federal Emergency Management Agency [FEMA], and to designate these amounts as emergency requirements pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, pursuant to 31 U.S.C. 1107 (H. Doc. No. 103-318); to the Committee on Appropriations and ordered to be printed.

3876. A letter from the Comptroller of the Department of Defense, transmitting a report of a violation of the Anti-Deficiency Act which occurred in the Department of the Army, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

3877. A letter from the Comptroller of the Department of Defense, transmitting a report of a violation of the Anti-Deficiency Act which occurred in the Department of the Army, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

3878. A letter from the Deputy Assistant Secretary, Department of the Air Force, transmitting notification that a study has been conducted with respect to converting the grounds maintenance function at Randolph Air Force Base, CO, and a decision has been made that performance under contract is the most cost-effective method, pursuant to Public Law 100-463, section 8061 (102 Stat. 2270-27); to the Committee on Armed Services.

3879. A letter from the Deputy Associate Director for Compliance, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Natural Resources.

3880. A letter from the Secretary, Department of Transportation, transmitting the Department's annual report entitled "Transportation Security" for calendar year 1993, pursuant to Public Law 101-604, section 102(a) (104 Stat. 3068); to the Committee on Public Works and Transportation.

3881. A letter from the Secretary of Energy, transmitting a report regarding the development of a list of potential international energy projects in host countries using renewable energy technologies; jointly, to the Committees on Energy and Commerce and Foreign Affairs.

3882. A letter from the Secretary of Health and Human Services, transmitting a report entitled "Monitoring the Impact of Medicare Physician Payment Reform on Utilization and Access", pursuant to Public Law 101-239; jointly, to the Committees on Energy and Commerce and Ways and Means.

3883. A letter from the Secretary of Health and Human Services, transmitting the annual report with respect to actions taken to recruit and train Indians to qualify them for positions subject to Indian preference; the annual report on actions taken to place non-Indians employed by the Indian Health Service in other Federal agencies, pursuant to 25 U.S.C. 472a(d); jointly, to the Committees on Natural Resources and Post Office and Civil Service.

3884. A communication from the President of the United States, transmitting the proclamation terminating the trust relationship between the United States and Palau and the entry into force of the Compact of Free Association between the United States and the Republic of Palau, effective October 1, 1994, pursuant to Public Law 101-219, section 101(1) & (2), Public Law 99-658, section 101(d)(1)(A) & (C), Public Law 99-239, section 102(b)(2)(B) (H. Doc. No. 103-317); jointly, to the Committees on Natural Resources and Foreign Affairs and ordered to be printed.

3885. A letter from the Comptroller General, General Accounting Office, transmitting an audit of the Department of Energy's Office of Civilian Radioactive Waste Management, pursuant to 42 U.S.C. 1022(d); jointly, to the Committees on Energy and Commerce, Natural Resources, and Government Operations.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FROST: Committee on Rules. House Resolution 554. Resolution waiving points of order against the conference report to accompany the bill (H.R. 4650) making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes (Rept. 103-759). Referred to the House Calendar.

Mr. STUDDS: Committee on Merchant Marine and Fisheries. H.R. 4734. A bill to require consultations, assessments, and monitoring of the effects of major trade actions on the environment generally, including fish, wildlife, endangered species, and other natural resources; with an amendment (Rept. 103-760, Pt. 1). Ordered to be printed.

Mr. FORD of Michigan: Committee of Conference. Conference report on H.R. 6. A bill to extend for 6 years the authorizations of appropriations for the programs under the Elementary and Secondary Education Act of 1965 and for other purposes (Rept. 103-761). Ordered to be printed.

#### PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. PETERSON of Minnesota:

H.R. 5115. A bill to improve the management of the project-based rental assistance program under section 8 of the United States Housing Act of 1937; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BROOKS (for himself, Mr. FISH, and Mr. SYNAR):

H.R. 5116. A bill to amend title 11 of the United States Code; to the Committee on the Judiciary.

By Mr. MURTHA:

H.R. 5117. A bill to amend title 10, United States Code, to provide for improved treatment of future actuarial gains and losses to the Department of Defense Military Retirement Fund; to the Committee on Armed Services.

By Mr. BERMAN:

H.R. 5118. A bill to amend the Tariff Act of 1930 to permit an extension for filing drawback claims in cases where the President has declared a major disaster; to the Committee on Ways and Means.

By Mr. DEFAZIO:

H.R. 5119. A bill to increase access to, control the costs associated with, and improve the quality of health care in States through health insurance reform, State innovation, public health and medical research, and for other purposes; jointly, to the Committees on Energy and Commerce, Ways and Means, and Education and Labor.

By Ms. DELAURO (for herself and Mr. GEPHARDT):

H.R. 5120. A bill to facilitate efficient investments and financing of infrastructure projects and new job creation through the establishment of a National Infrastructure Development Corporation, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs, Ways and Means, and Public Works and Transportation.

By Mr. KLINK:

H.R. 5121. A bill to assist in the economic conversion and diversification of industries and small businesses in the defense industrial base of the United States that are adversely affected by significant reductions in spending for national defense; jointly, to the Committees on Energy and Commerce, Armed Services, Ways and Means, and Foreign Affairs.

By Mr. MANN:

H.R. 5122. A bill to require Federal agencies that own or lease motor vehicles to keep accurate records of the use of those vehicles by Federal employees, and for other purposes; to the Committee on Government Operations.

By Mr. RAHALL:

H.R. 5123. A bill to make a technical correction to an act preempting State economic regulation of motor carriers; to the Committee on Public Works and Transportation.

By Mr. REYNOLDS:

H.R. 5124. A bill to amend the Internal Revenue Code of 1986 to limit the interest deduction allowed corporations and to allow a deduction for dividends paid by corporations; to the Committee on Ways and Means.

By Mrs. ROUKEMA:

H.R. 5125. A bill to amend the Community Reinvestment Act of 1977 to enhance the availability of investment capital for low- and moderate-income housing in low- and moderate-income neighborhoods; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SANDERS (for himself and Mr. OWENS):

H.R. 5126. A bill to amend the National Labor Relations Act, to establish the National Public Employment Relations Commission, and to amend title I of the Employment Retirement Income Security Act of 1974 to provide for joint trusteeship of single-employer pension plans; to the Committee on Education and Labor.

By Mr. UNDERWOOD:

H.R. 5127. A bill to amend title VII of the Civil Rights Act of 1964 to establish that English-only rules cause an adverse and disparate effect on certain employees and applicants for employment; to the Committee on Education and Labor.

By Mr. TORRICELLI (for himself and Mr. HAMILTON):

H.J. Res. 416. Joint resolution providing limited authorization for the participation of United States Armed Forces in the multinational force in Haiti and providing for the prompt withdrawal of United States Armed Forces from Haiti; jointly, to the Committees on Foreign Affairs and Rules.

By Mr. DINGELL (for himself, Mr. MOORHEAD, Mr. SWIFT, and Mr. OXLEY):

H.J. Res. 417. Joint resolution providing for temporary extension of the application of the final paragraph of section 10 of the Railway Labor Act with respect to the dispute between the Soo Line Railroad Co. and certain of its employees; to the Committee on Energy and Commerce.

By Mrs. LLOYD (for herself, Mr. WALSH, Mr. SLATTERY, Mr. DELLUMS, Ms. PELOSI, Mr. SAWYER, Mr. TANNER, Mr. HOCHBRUECKNER, Mr. FARR, Mr. GORDON, Mr. GUTIERREZ, Mr. McDERMOTT, Mr. CRAMER, Mr. OBERSTAR, Mr. COOPER, Mr. MAZZOLI, Mr. McCREERY, Mr. SANGMEISTER, Mr. BALLENGER, Mr. BLUTE, Mr. STEARNS, Ms. DANNER, Mr. BEILENSON, Mr. BATEMAN, Mrs. MALONEY, Mrs. MEEK of Florida, Mr. MINETA, Mrs. VUCANOVICH, Mr. DUNCAN, Mr. VALENTINE, Mr. BROWN of Ohio, Mr. BEVILL, Mr. ROEMER, Mr. DORNAN, and Mr. STUDDS):

H.J. Res. 418. Joint resolution designating October 19, 1994, as "National Mammography Day"; to the Committee on Post Office and Civil Service.

#### ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 65: Mr. CRAMER.  
 H.R. 746: Mr. BACHUS of Alabama.  
 H.R. 1108: Mr. CALVERT.  
 H.R. 1500: Ms. MARGOLIES-MEZVINSKY and Mr. DARDEN.  
 H.R. 1551: Mr. CHAPMAN.  
 H.R. 1843: Mrs. UNSOELD.  
 H.R. 1945: Mr. BARCIA of Michigan.  
 H.R. 2292: Mr. HILLIARD, Mr. JEFFERSON, and Mr. CONYERS.  
 H.R. 2305: Mr. COPPERSMITH.  
 H.R. 2340: Mr. OLVER.  
 H.R. 2420: Mr. ELVER, Mr. McDERMOTT, Ms. DANNER, and Mr. BISHOP.  
 H.R. 2512: Ms. PRYCE of Ohio.  
 H.R. 2717: Mr. CRAMER.  
 H.R. 2873: Mr. GALLO.  
 H.R. 2918: Mr. DIXON, Mr. McCLOSKEY, Ms. SLAUGHTER, Mr. LEHMAN, and Mr. LAZIO.  
 H.R. 2971: Mr. PAYNE of Virginia.  
 H.R. 3031: Mr. BURTON of Indiana.  
 H.R. 3137: Mr. RICHARDSON.  
 H.R. 3334: Mr. ROHRBACHER.  
 H.R. 3488: Mr. MILLER of Florida.  
 H.R. 3538: Ms. SLAUGHTER.  
 H.R. 3739: Mr. STUMP.  
 H.R. 3971: Mr. DUNCAN and Mr. MCCANDLESS.  
 H.R. 4091: Ms. PELOSI.  
 H.R. 4142: Mr. SWIFT.  
 H.R. 4416: Mr. EHLERS, Mr. HILLIARD, Mr. CALVERT, Mr. LIGHTFOOT, Mr. JOHNSON of South Dakota, Mr. LEWIS of Georgia, Mr. CONDIT, Mr. POMBO, Mr. STENHOLM, Mr. DOOLEY, Mr. LAROCCO, and Mr. BARRETT of Wisconsin.  
 H.R. 4507: Mr. TORKILDSEN.  
 H.R. 4557: Mr. HASTERT.  
 H.R. 4574: Mr. GOODLATTE.  
 H.R. 4710: Mr. SPRATT, Mr. EDWARDS of California, Mr. GUTIERREZ, Mr. HOLDEN, Mr. TRAFICANT, Mr. WASHINGTON, Mr. FILNER, Mr. WATT, Mr. CONYERS, Mr. YATES, Mr. KINGSTON, Mr. NADLER, Mr. GONZALEZ, Mr. MILLER of California, Mr. BROWN of Ohio, and Mr. VENTO.  
 H.R. 4873: Mr. SISISKY.  
 H.R. 4874: Mr. RIDGE, Mr. FROST, and Mrs. UNSOELD.  
 H.R. 4875: Mr. HILLIARD, Mr. FROST, and Mr. EVANS.

H.R. 4877: Mr. JOHNSON of South Dakota.  
 H.R. 4878: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. HASTINGS, and Mr. GENE GREENE of Texas.  
 H.R. 4880: Mr. FROST.  
 H.R. 4887: Mr. ROTH.  
 H.R. 4912: Mr. ACKERMAN, Mr. ANDREWS of New Jersey, Mr. BERMAN, Mr. BORSKI, Mr. BARLOW, Mr. BILBRAY, Mr. DEUTSCH, Mr. DINGELL, Ms. ESHOO, Mr. FARR, Mr. FAZIO, Mr. SABO, Mr. SARPALIUS, Mr. SCHUMER, Mr. SLATTERY, Mr. TORRICELLI, Mr. WHITTEN, Mr. FORD of Tennessee, and Mr. BLUTE.  
 H.R. 4995: Mr. COOPER and Mr. MOORHEAD.  
 H.R. 5014: Mr. FROST, Mr. JOHNSON of South Dakota, and Mr. EVANS.  
 H.R. 5032: Mr. LAUGHLIN, Mr. KOPETSKI, Mr. KINGSTON, Mrs. UNSOELD, and Mrs. THURMAN.  
 H.R. 5062: Mr. EWING, Ms. PRYCE of Ohio, Mr. TANNER, Mr. ROYCE, Mr. STUMP, Mr. BOUCHER, Mr. PICKETT, Mr. WELDON, Mr. BROWN of California, Mr. GOODLING, Mr. RICHARDSON, Mr. BARRETT of Wisconsin, Mr. GLICKMAN, Mr. LANCASTER, Mr. MINGE, Mr. INGLIS of South Carolina, Mr. SKELTON, Mr. DEAL, and Mr. COOPER.  
 H.R. 5068: Ms. ROYBAL-ALLARD.  
 H.R. 5110: Mr. GIBBONS, Mr. MATSUI, Mrs. KENNELLY, Mr. LEVIN, and Mr. BACCHUS of Florida.

H.J. Res. 326: Mr. PALLONE.  
 H.J. Res. 332: Mr. GILCHREST, Mr. PAYNE of New Jersey, Mr. FRANK of Massachusetts, Mr. SKELTON, Mr. KNOLLENBERG, Ms. NORTON, Mr. GORDON, Mr. ROBERTS, Mr. ROGERS, and Mr. VISCLOSKY.  
 H.J. Res. 385: Mr. MARTINEZ, Mr. LIPINSKI, and Mr. BURTON of Indiana.  
 H.J. Res. 389: Mr. STUDDS, Mr. OXLEY, Mr. DEUTSCH, Mr. BECERRA, Mr. BROOKS, Mr. SHAW, Mr. FARR, Mr. LAROCOCCO, Mr. DEAL, Mr. POMEROY, Mr. JOHNSON of South Dakota, Mr. MANTON, Mr. ORTIZ, Mr. KNOLLENBERG, Mr. RUSH, Mr. STUPAK, Mr. THORNTON, Mr. KING, Mr. CASTLE, and Mr. STARK.  
 H.J. Res. 398: Mr. MINGE, Mr. HERGER, Mr. LEWIS of California, Mr. BEREUTER, Mr. SERRANO, Mr. TOWNS, Mr. HILLIARD, Mr. MATSUI, Mr. BARCA of Wisconsin, Mr. FRANKS of Connecticut, Mr. DEFAZIO, Mr. PICKLE, Mr. LEWIS of Florida, Mr. ROWLAND, Mr. EVANS, Mr. FIELDS of Louisiana, Mr. TALENT, Mr. MICHEL, Mr. SHAW, Mr. BLILEY, Mr. MEEHAN, Mr. TAYLOR of Mississippi, Mr. DEUTSCH, Mr. FISH, Mr. GEKAS, Mr. TORKILDSEN, Mr. JOHNSON of South Dakota, Mr. CASTLE, Mr. SAM JOHNSON, Ms. NORTON, Mrs. THURMAN, Mr. HALL of Ohio, Mr. POSHARD, Mr. NEAL of North Carolina, Mr. BILBRAY, Mr. BARLOW, Ms. MOLINARI, Mr. RANGEL, Mr. SAXTON, and Mr. DIAZ-BALART.

H.J. Res. 401: Ms. FURSE, Mr. GEJDENSON, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. KENNEDY, Mr. KIM, Mr. LAFALCE, Mr. MCCREERY, Mr. MCHALE, Mr. MINETA, Mr. MYERS of Indiana, Mr. POSHARD, Mr. ROBERTS, Mr. ROSE, Mr. SHAW, Mr. STOKES, Mr. STUDDS, Mr. WHITTEN, Mr. WILSON, and Mr. YOUNG of Alaska.  
 H. Con. Res. 19: Mr. FINGERHUT.  
 H. Con. Res. 227: Mr. CRAPO.  
 H. Con. Res. 286: Mr. BATEMAN, Mr. EMERSON, Mr. LIVINGSTON, Mrs. MEYERS of Kansas, Mr. ROHRBACHER, and Mr. WALKER.  
 H. Res. 136: Mr. BARCIA of Michigan.  
 H. Res. 519: Mr. BARRETT of Nebraska.  
 H. Res. 546: Mr. PORTMAN, Mr. QUINN, Mr. COX, Mr. MCCANDLESS, and Mr. PORTER.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 140: Mr. SHAYS.  
 H.R. 3222: Mr. BARCIA of Michigan.  
 H.R. 4821: Mr. LUCAS.

## EXTENSIONS OF REMARKS

## INTRODUCING THE HEALTH INNOVATION PARTNERSHIP ACT OF 1994

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. DEFAZIO. Mr. Speaker, 1 year ago, President Clinton stood in this Chamber to announce his health care reform legislation. He told us that our health care system was in crisis and that we are the only industrialized Nation that does not provide health care to all of its citizens. One year later, nothing has changed.

The Congress did not accept the President's proposal, in fact, it did not agree on any proposal. Congress failed to reach a consensus to deliver a national health care plan. If it was impossible to overhaul the health care industry when the national momentum was at its peak, then it would take nothing short of a miracle for reform to take place next year in a more partisan and unfriendly climate.

What is obvious after 2 years of intense health care debate is that many individuals, health care professionals, and policymakers agree some type of reform is needed. What's unresolved is what kind of reform is necessary and how to get there.

In the effort to overhaul the Nation's health care system, the shared goals of cost containment, increased access, and improved quality were lost. In fact, the latest health care reform effort seems to have abandoned the goals of health reform in a last-minute attempt to find the unattainable middle-ground reform solution. According to a statement by Senator DANIEL PATRICK MOYNIHAN in the September 14 CONGRESSIONAL RECORD.

The Mainstream Coalition proposal would be a step backward for New York and other progressive states that have already taken actions to expand coverage and contain costs.

State efforts and innovation should not be thwarted in any national effort. It's ridiculous to ask progressive States to take a step backward and wait while other States try to catch up.

The reforms proposed are all based on programs abroad or theoretical models. As Yale professors Ted Marmor and Jerry Mashaw said in a New York Times editorial of June 12, 1994,

If Congress adopts an unproven and untested \*\*\* plan and it turns out to be the health care equivalent of a train wreck, it would be sensible to not have the country on the same train at the same time.

As we've learned from past Federal legislation, it's difficult to repair a system once it's enacted into law. A one-size fits all bill ignores that what may work in Oregon may not work in Pennsylvania, Connecticut, or Texas.

Without concrete examples of what works, I'm afraid we'll spend future congressional sessions rehashing this year's debate. While Congress abandons this issue, many Americans are left without coverage and some States are moving ahead with reforms of their own.

Six States have already enacted comprehensive health care reform proposals—Oregon, Hawaii, Massachusetts, Minnesota, Florida, and Washington. In addition, 44 States have begun small group insurance reform, 44 have enacted data collection systems and 41 have Medicaid managed care experiments underway.

Mr. Speaker, there is a viable alternative to this congressional impasse. Today, I introduce the Health Innovation Partnership Act. Senators MARK HATFIELD of Oregon and BOB GRAHAM of Florida are the principal sponsors in the Senate. This important legislation allows States the flexibility, with Federal assistance of \$50 billion in State grants, to devise their own health reform plans that increase access, control costs, and improve the quality of care.

The Health Innovation Partnership Act uses States as laboratories to test successful reform efforts, allowing States to adopt single-payer, alliances, managed care, or any other plan that works for their citizens. This bill ensures that all individuals in a State will have equal or superior benefits to those they currently receive. Furthermore, this bill gives priority for grants to States expanding health coverage to children and youth.

At the end of the 5-year State innovation project period, a report will be made to Congress on the progress States made toward reaching the goals of expanding coverage and containing costs. This report will include recommendations for future action at both the national and State level, in addition to highlighting the successes and failures of individual States.

This bill also establishes a process for the creation of minimum national insurance standards, expands the infrastructure for public health and prevention activities in rural and underserved areas, and increases the funding for medical research.

The public health section seeks to promote prevention, public health, cost effective treatment, and health education through: First, strengthening the partnership with capacity of local and State public health departments to carry out core public health functions; second, expanding access to preventative and primary care services for vulnerable and medically underserved populations; third, supporting applied research on prevention and effective public health interventions; and fourth addressing public health work force needs and access problems.

Dr. C. Everett Koop, a leading advocate for preventative medicine, noted that 70 percent of all illness is preventable and that there are approximately 1 million deaths annually that

are preventable. The failure to prevent these illnesses carries a hefty price tag in the billions. Ironically, our Nation invests less than 1 percent of our total health care dollars on public health. Common sense tells us it's time to redirect our priorities and increase funding for vital public health programs.

Our health care system could be more adequately described as a sick-care system. Instead of preventing illness and promoting healthy living, our system focuses on sickness and acute medical care. Keeping communities safe and healthy has long been the priority of public health organizations and departments.

We need to do more than control the costs of health care and rework the payment structure. We need to evaluate our delivery system and find ways to keep our citizens healthy.

The medical research component of the bill dedicates a minimum of 6 billion over the next 5 years to increase the annual appropriations to the National Institutes of Health Research. While I believe prevention should be the cornerstone of any health plan, we must also invest the money and energy needed to find cures for those illnesses that cannot be prevented. Medical research also augments our efforts to discover preventative treatments and genetic patterns that help improve the health of our people.

A mere 2 to 3 percent of our Nation's total health care spending goes to support medical research. At a time when our Nation is on the forefront of major medical research breakthroughs, we're unfortunately funding the fewest number of research grants in 10 years. Cures and preventative treatments will truly help us contain the costs of health care.

This federalist bill forms the Federal-State partnership our forefathers sought. The States can serve as microcosms, giving us accurate data on reform efforts and informing our national debate.

This bill is not the last word in the health care debate—but instead, a sturdy beginning. It's the first step toward improving health care coverage for all Americans.

In closing, I'd like to thank Senator BOB GRAHAM and MARK HATFIELD for their leadership on this legislation and their dedication to health care reform. I look forward to working with them to pass this important bill. I am also glad to work with any of my colleagues and others who have recommendations to improve this bill.

TRIBUTE TO GEBRAN S. ANTON

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. BONIOR. Mr. Speaker, this evening, the southeast Michigan chapter of the March of Dimes Birth Defects Foundation will be hosting

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

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

the 11th annual Alexander Macomb Citizen of the Year award dinner. The award, instituted in 1984, is named after my home county's namesake, Gen. Alexander Macomb, a hero of the War of 1812.

This year, the March of Dimes has chosen my long-time friend, Gebran Anton, as a recipient of the award. A native of Mount Clemens, MI, Gabe Anton has worked hard to revitalize our community. As a developer, retailer, business leader, and community activist, Gabe has been instrumental in spearheading a master plan for the city. His leadership has fostered a sense of cooperation between the local business people that has not only given the city a new look, but a new attitude. Mount Clemens has again become a city where people are proud to work, shop, and live. He most recently has provided space for students from Mount Clemens High School to run a music store. His generosity is providing first hand experience to a new generation of Mount Clemens entrepreneurs.

Gabe's commitment to service and hard work are not limited to entrepreneurial endeavors. The Boy Scouts, the YMCA, the Elks Club, and the Knights of Columbus represent only a few of the many organizations to which he has committed his talents.

Through advocacy, education and community service, the March of Dimes has established itself as an organization with an impeccable reputation. And, the southeast Michigan chapter rightly recognizes Gebran Anton for his excellent service and outstanding leadership. Receiving recognition from the March of Dimes is an exceptional honor and I urge my colleagues to join me in saluting Gabe Anton, as a recipient of the Alexander Macomb Citizen of the Year Award.

#### COP COLLECTIBLE CARDS

##### HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. WELDON. Mr. Speaker, I rise today to bring to the attention of my colleagues an outstanding and innovative program of my district's Brookhaven Police Department which has been enormously successful in teaching young citizens to stay away from the lure of illegal drugs.

As the incidence of juvenile crime and illegal drug use continue to reach near epidemic proportions, it's imperative that we as a nation do all that we can to educate students on the dangers of drugs, crime, and violence.

The Brookhaven Police Department has found a unique way to send positive messages to young people through a very successful program that other departments are now actively seeking for participation. Trading cards, a seemingly old fashioned idea, is once again gaining momentum.

Last year, the department issued its first edition of Cop Collectibles—trading cards, similar to baseball and football cards. However, instead of sports heroes, the card pictures the local police officers. On the back is the officer's biography and an antidrug message which the officer on the card has selected.

The Cop Collectible card program lets young citizens to know their police officer. Children not only receive a positive antidrug message, but get to know the officer as a friend, not a foe.

Police Chief John Eller has initiated Cop Collectible card contests that have gained the attention of the entire Brookhaven community. Youths who gather the largest collection of cop cards have won a variety of gifts including ballpark tickets and bicycles.

This unique program has not only provided a strong and effective antidrug message to the community's young people, but has fostered a stronger relationship between law enforcement and the local kids.

The Brookhaven Police Department has reached out to their community in an effective way that sends positive messages to local children.

I wish to commend Police Chief John Eller and the entire Brookhaven Police Department for their outstanding efforts and congratulate them on the success of the cop card program. It now serves as a model in other parts of the Seventh Congressional District.

I am confident that we will see the positive results of this program for years to come.

#### TRIBUTE TO FRED PRUITT

##### HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. FILNER. Mr. Speaker and colleagues, I rise today to honor a great friend and community leader who passed away this week, Fred Pruitt. Fred always worked to make life better for everyone, believing that activism was better than lip service, progress better than the status quo.

In 1960, a young Fred Pruitt decided to serve his country by joining the U.S. Navy, where he was stationed on the U.S.S. *Black*. He served two tours in Vietnam as a fire control technician and returned home to become a journeyman electrician. He also attended San Diego State University, while juggling the responsibilities of a young family. In 1973, Fred joined the Jaycees. He was named Jaycee of the Year in 1974 and finally president of the national city chapter, but more was ahead for Fred Pruitt.

In 1975, he and his wife Allie opened up the National City home and Hardware Store. By 1977, he continued his service to his community on the board of directors of the National City Chamber of Commerce. He was later appointed the National City Civil Service Commission. In 1978, he was appointed to the National City Planning Commission and became chairman in 1982.

Fred was elected city council in National City in 1986, serving until 1990. During his tenure as city councilman, he also served as vice mayor of the city. For all of his achievements and contributions to his community, Fred and his wife Allie shared the Citizen of the Year Award for National City in 1991.

He was also recognized at the State level, winning the Outstanding Small Business Award for the State of California in 1993. Just

recently, Fred and Allie flew to Oakland to receive the Minority/Supplier/Distributor of the Year Award for 1994 by the U.S. Department of Commerce.

But of all the awards he won, perhaps the most significant was the respect and admiration of his friends, family, and community for his unwavering commitment to hard work, community involvement, and a sincere belief that one person can make a difference.

In this lifetime, we all come across a small number of special people, those who touch our minds, hearts, and souls with their activism, optimism, and dedication to making everyone's life richer. Fred was one of those chosen few. My thoughts and prayers go out to Allie and his family, friends and the community. This world needs more people like Fred Pruitt; he will be sorely missed.

#### RESPONSIBILITY IN GOVERNMENT

##### HON. MARTIN R. HOKE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. HOKE. Mr. Speaker, I want to bring to the attention of my colleagues the efforts of an organization headquartered in my district, whose work should serve as a model for concerned citizens everywhere.

The organization is known as RIGOR, which stands for Responsibility in Government, Our Right, and is comprised of everyday Americans who are not content to sit back and complain about our Nation's state of affairs without doing something about it. RIGOR's mission is to work for responsible and responsive representation in government, and their dedication to this cause has proved an invaluable resource to me during my first term in Congress.

One of RIGOR's most valuable projects in recent months has been their circulation of a petition, reprinted below, calling for Congress to enact a market-based reform of the health care system and oppose a government-run, tax-heavy bureaucratic approach. I commend my colleagues RIGOR's petition, and I urge them to heed RIGOR's good advice when we take up health care reform in the next Congress.

#### PETITION TO CONGRESS ON HEALTH CARE REFORM

Responsibility in Government, Our Right (R.I.G.O.R.) is an organization dedicated to promoting responsible and responsive government action. On behalf of R.I.G.O.R. and in accordance with its philosophy, the Trustees of R.I.G.O.R. hereby petition Congress regarding the present national discussion on Health Care as follows:

A. Any solution to problems in the health care system MUST NOT include comprehensive Federal regulation of health care. Present government intervention has already caused more problems than it has solved.

B. We prefer that a market-based approach favoring private enterprise and empowerment of individual health care consumers be the model for any health care policy changes. We believe that, given the chance, the health care industry will improve the current situation much faster than any government bureaucracy.

C. We fundamentally oppose the establishment of a Federally Mandated or Nationalized Health Care System. In England, Ireland and Canada, national health care systems have resulted in closed hospitals due to money shortages. National health care systems have proven to be expensive and inefficient.

The signers below, both members and non-members of R.I.G.O.R., endorse and support these principles and hereby petition Members of Congress to legislate in accordance with these principles.

**NATIONAL BONE MARROW DONORS  
AWARENESS WEEK**

**HON. ELIZABETH FURSE**

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 28, 1994*

Ms. FURSE. Mr. Speaker, September 12 has been designated National Bone Marrow Donors Awareness Week, and I want to take this opportunity to applaud those who have volunteered to join the National Bone Marrow Registry.

The registry was set up by committed individuals with assistance from Congress in 1987 to help people with leukemia and other blood disorders to find potential bone marrow donors. Since the registry's inception, 1.4 million Americans have signed up and are available to donate their bone marrow to save another's life.

In my district in Oregon there are three donor collection and transplant sites: one in Portland, one in Aloha, and one in Tualatin. There are also 15 other collection and transplant sites around the State of Oregon. I support this program, and encourage all Americans to consider volunteering for the registry.

On this occasion, I want to recognize the efforts of a very special person, Oregon's Dave Frohnmayer. Dave Frohnmayer was formerly State attorney general and is currently the president of the University of Oregon. Along with his noble record of public service, Dave is a true hero for his endless dedication in promoting the marrow registry, recruiting volunteers for the program, and raising public awareness. His personal crusade began when his two daughters, Katie and Kristen, contracted a rare blood disease. In seeking treatment they discovered a lack of donors around the country. Katie Frohnmayer died September 26, 1991. Dave and his wife, Lynn, honor her life by continuing to work to expand the donor registry.

During National Bone Marrow Donors Awareness Week, I call on all Americans to join with Dave Frohnmayer and other American heroes and volunteer for the registry.

**TRIBUTE TO DOMINIC AND FRED  
SEVERINI, JR.**

**HON. DAVID E. BONIOR**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 28, 1994*

Mr. BONIOR. Mr. Speaker, this evening, the southeast Michigan chapter of the March of

Dimes Birth Defects Foundation will be hosting the 11th annual Alexander Macomb Citizen of the Year award dinner. The award, instituted in 1984, is named after my home county's namesake, Gen. Alexander Macomb, a hero of the War of 1812.

This year, the March of Dimes has chosen Dominic and Fred Severini, Jr., to be recipients of the second annual Family of the Year Award. Committed to improving the health of America's babies, the March of Dimes in southeast Michigan is paying tribute to the Severinis for their service and leadership in the community. The family is perhaps best known for the Fern Hill Country Club which offers golfing, racquetball, bowling, and excellent banquet facilities.

The sons of immigrant Italian parents, the Severinis have discovered the American dream while never forgetting the needs of the less fortunate. Their success has enabled them to bless the March of Dimes and many other community organizations with their skills and talents.

Through advocacy, education, and community service, the March of Dimes has established itself as an organization with an impeccable reputation. And, the southeast Michigan chapter rightly recognizes the Severinis for their commitment to our community. Receiving recognition from the March of Dimes is an exceptional honor and I urge my colleagues to join me in saluting Dominic and Fred Severini, as recipients of the Alexander Macomb Family of the Year Award.

**TRIBUTE TO AL SCHACHT**

**HON. CURT WELDON**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 28, 1994*

Mr. WELDON. Mr. Speaker, after nearly 35 years with the Forest Service, Al Schacht, a resident of my congressional district, will retire tomorrow as Director of State and Private Forestry for the Northeastern Area.

Al joined the Forest Service in 1959 as an engineer, laying out roads for timber sales. Later, he served as a wildlife biologist at the Beaverhead National Forest. In 1966, Al joined the State and Private Forestry division, where he would remain for the rest of his career. His accomplishments there were many. He wrote legislation for the Forestry Incentive and Urban and Community Forestry Programs. He did the staff work for development of the rural community fire protection legislation guidelines and implementing procedures. He conceived and developed the State Forest Resource Planning Program.

Through his long career, Al demonstrated outstanding leadership qualities and a strong commitment to people and forests. He has made a very real contribution toward the conservation of our Nation's forests. Al will certainly be missed within the Forest Service, but his retirement is well earned. I wish him and his wife, Judy, much happiness in the future.

**THE DUTY DRAWBACK DISASTER  
RELIEF ACT OF 1994**

**HON. HOWARD L. BERMAN**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 28, 1994*

Mr. BERMAN. Mr. Speaker, more than 9 months after the devastating January 17 Northridge earthquake, many individuals, families, and businesses in the Los Angeles area are still picking up the pieces and trying to return to a normal existence. The Federal Government has played a central role in the recovery effort from day one, and to date significant progress has been made. FEMA Director James Lee Witt, SBA Administrator Erskine Bowles, and HUD Secretary Henry Cisneros deserve a great deal of credit for their willingness to go the extra mile to help those in need.

Despite the unprecedented flexibility demonstrated by Federal, State and local officials, some earthquake-damaged companies have been unable to obtain disaster assistance. A number of businesses face relatively unique problems that had not been previously experienced or anticipated, and are thus having trouble qualifying for the standard Federal disaster assistance programs.

To help ensure that some victims of the Northridge earthquake and other disasters don't fall through the cracks, I am introducing legislation today that would provide an 18 month extension of the duty drawback filing period for businesses that sustain damage in a presidentially declared disaster. Under current law, the Commissioner of Customs has no discretion to provide such an extension even if, through no fault of their own, businesses lose their records in a fire, flood, hurricane, tornado, earthquake or other disaster.

This legislation would have an almost negligible budgetary impact, yet would be of crucial importance to the small number of businesses unable to file drawbacks when disaster strikes. The Customs Service, the Treasury Department, and the Office of the United States Trade Representative have all signaled their support for this legislation, and I hope it will be enacted by the Congress in a timely fashion.

H.R. —

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SPECIAL RULE FOR EXTENDING TIME FOR FILING DRAWBACK CLAIMS**

Section 313(r) of the Tariff Act of 1930 (19 U.S.C. 1313(r)), is amended by adding at the end the following:

“(3)(A) Notwithstanding the limitation set forth in paragraph (1), the Customs Service may extend the time for filing a drawback claim for a period not to exceed 18 months, if—

“(i) the claimant establishes to the satisfaction of the Customs Service that the claimant was unable to file the drawback claim because of an event declared by the President to be a major disaster on or after January 1, 1994, and

“(ii) the claimant files a request for each extension with the Customs Service within 1 year from the last day of the 3-year period referred to in paragraph (1).

"(B) If an extension is granted with respect to a request filed under this paragraph, the periods of time for retaining records set forth in subsection (t) of this section and section 508(c)(3) shall be extended for an additional 18 months.

"(C) For purposes of this paragraph the term 'major disaster' has the meaning given such term in section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2))."

## THE PANAMA CANAL AND THE NEXT 5 YEARS

HON. PETER T. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. KING. Mr. Speaker, in just a little over 5 years, the Panama Canal will be transferred to Panama in accordance with the Carter-Torrijos Treaty.

The Panama Canal remains very important to the economic trade interests of the United States. We are the largest users of the Panama Canal with well over 50 percent of the cargo volume. Additionally, the metropolitan area of New York City relies significantly on the Panama Canal. According to the Port Authority of New York and New Jersey, some 60,000 jobs in our area are the result of traffic through the Panama Canal.

There are questions as to whether Panama has the capacity to operate the canal with the same safety and efficiency as the United States. Dealing with these questions, Robert R. McMillan, a fellow Long Islander and Chairman of the Board of the Panama Canal Commission, recently delivered an address in New York City to the Propeller Club of the United States. As a supporter of the American Merchant Marine, the Propeller Club has an obvious interest in the canal's future. After 5 years on the Board of the Panama Canal Commission and having served as Chairman for the last year, Mr. McMillan's remarks will be of great interest to my colleagues.

### THE PANAMA CANAL AND THE NEXT FIVE YEARS

(By Robert R. McMillan)

At the outset, let me set the stage for our discussion. The Panama Canal is a business which employs some 7,500 people and has annual revenues in excess of \$530 million. The Canal operates without any burden to the taxpayers of the United States. Based on the annuity and commissions paid to Panama, it can actually be said that the Panama Canal Commission makes a profit. The Canal represents almost twenty percent of the Panamanian economy. And while significant to the commercial activity of the United States, the Panama Canal no longer has as important a strategic military value as in the past.

What I want to deal with today is how the Panama Canal Commission and the respective governments of Panama and the United States are doing in the transition process—a process which will transfer the Canal to Panama at noon on December 31, 1999. First, keep in mind that the Panama Canal is much more than an international waterway. It is also a highly sophisticated industrial-maritime business complex—and I emphasize business. While obvious, it should be noted that

operating in Panama is not similar to conditions at the St. Lawrence Seaway. The infrastructure in Panama does not have a bevy of electricians, divers, communications specialists, welders, carpenters, machine tool operators and other technically qualified people ready for call at a moment's notice. As a result, it is necessary to have in place, not only skilled management and engineers to supervise Canal operations, but it is essential to have the support crafts available at all times. It is important to understand the dimensions of the Canal as we lead up to a "seamless transfer" to Panama in just five years. By "seamless," the Board of Directors of the Panama Canal Commission means that there will be no perceivable bump in operations as Panama assumes responsibility for the business. Such will be the challenge for both the governments of Panama and the United States as well as the Panama Canal Commission and the entity to be created by Panama to manage the Canal. It is extremely important that you understand our mutual objectives and have faith in the implementation of our plans.

### PANAMA

While all parties have a responsibility for the transfer of the business, let me begin with Panama. Key to the success, in our envisioned "seamless transfer," will be the actions of the Government of Panama. In that connection, I feel that Ernesto Perez Balladeres, the newly inaugurated President of Panama, could well be the right person at the right time. In my meetings with him since his May 8 election, I have found him decisive, full of confidence and greatly aware of the burden he has to prepare Panama for effective stewardship of the Panama Canal. In telling a friend about my confidence in the new President, I was greeted with a smile and the declaration, "It doesn't surprise me. We are both Notre Dame graduates!" Add to this President Perez Balladeres' Wharton School education, employment with a major international bank, and political experience—and it is clear why people are impressed with the new President. In preparing to assume the Presidency, he has used business-like approaches to issues facing Panama. In addition, he has selected many outstanding people for important government posts—individuals who have real ability and credibility. In addition, the new President will have a "workable" majority in Panama's legislative body, the National Assembly.

I have absolutely no doubt about the capability of Panamanians to run the Canal from the top to the bottom. Gilberto Guardia, a Panamanian, has done a first-rate job as Administrator. In all, Panamanians occupy almost 90 percent of Canal positions. They are making the operating decisions today—now—as I speak. Let me emphasize this point again. Panamanians, as I speak, are making Canal decisions affecting operations today and well past the year 1999. The transition has been under way for over fifteen years and is accelerating.

In addition to the Administrator, two of the three top Bureau heads are Panamanian. Panamanian managers are at every level within the Canal organization. They are all performing in an outstanding manner. I have little doubt that more Panamanians will move into management positions over the next several years, because that is the stated and unequivocal policy of the Panama Canal Commission's Board of Directors. This policy is fully supported by Canal management. The concern expressed, by some government officials in Panama, about having more Pan-

amanians in management positions, while somewhat overstated for internal political purposes, is a constant reminder to the Commission of our responsibility in this area. Believe me—we take the responsibility very seriously.

Of most concern to Panama should be the creation of the entity which will assume responsibility for the Canal on the date of transfer. The National Assembly has already passed for the first time a new Constitutional Amendment which would create the Panama Canal Authority. The current National Assembly, which assumed office on September 1, will now have to consider passing this measure for a second time in order for it to become part of the Panamanian Constitution. Insulating Canal business operations from day to day politics in Panama is one of the major and most important features of this proposed Amendment. Treating the Canal as a business and not as an appendage of the government will be in the best interests of all users and those working for the Canal. There are now some doubts as to whether the Amendment will be approved for a second time by the current National Assembly. This is a decision for Panama. World shipping, anxious about the future, will be carefully observing what substitute is arranged should the Amendment be shelved.

The importance of this Panamanian Canal entity is best seen through some of the issues which must be considered. It will have to consider toll-rates, negotiations with labor unions, major capital expenditures committed to before 1999 and delivered well into the next century (The Gaillard Cut widening program is one example), budgets, financing, insurance and many other details—all of which should flow in an uninterrupted way through our "seamless transfer."

Another area of concern is the enactment of laws which will govern the Canal after 1999. Today, United States law covers most aspects of the Canal business. While the proposed Constitutional Amendment sets the tone and even incorporates certain laws of the United States, further legislative action by Panama is required. Codifying laws to cover ship liability, procurement, ethics and an entire personnel structure remain high on the list of priorities for Panama. The Commission is currently cooperating with the Government of Panama in drafting such legislation.

While these issues and many more remain on Panama's plate for consideration, I would be remiss if I did not comment on the fine work of the Presidential Commission headed by J.J. Vallarino. Mr. Vallarino, a Panamanian member of the Commission's Board, took on the responsibility for his country to develop the Constitutional Amendment mentioned earlier and worked arduously to frame the core laws needed to supplement the Constitutional Amendment. This Commission has made significant progress and should be complimented for its untiring and careful work.

It is a given that most people can correctly observe the scope of a problem. Fewer, then, have the capacity to lay out the necessary plans. And still fewer have the capability to execute the plans. With regard to the transfer, much of the execution is up to Panama. The next five years are critical. President Perez Balladeres has the "watch" during this critical period. From what I have seen to date, I believe he will lead Panama effectively through the transition process—so long as he is not distracted by internal Panamanian politics.

UNITED STATES AND PANAMA CANAL  
COMMISSION

During the transition period, the Panama Canal Commission must continue to maintain and operate a world class waterway. In that connection, the Canal management must constantly review operations to insure that innovation, creativity, cost savings and dedication to efficiency remain high priorities. There are several areas where the United States has a responsibility. First, is the passage of President Clinton's recommendations to the Congress for changes in the Panama Canal Commission. Turning the Panama Canal Commission into a Government Corporation is his key proposal. In calling for the Commission to become a corporation, the President's report said, "As an agency with a commercial mission, an organizational structure that allows market responsiveness and operational flexibility is, most desirable." A government corporation would be able to consider implementing operating conditions and regulations more conducive to transferring the Canal to a Panamanian entity—all which could be assured by that entity.

Other recommendations relate to greater Board involvement, qualifications for Board members, the toll-rate process, a study to cover budgeting, procurement, personnel, ethics, audits and liquidation of liabilities. This proposed legislation will probably be considered in the next Congress. Passage of President Clinton's proposals are essential to achieving a "seamless transfer" of the Canal to Panama.

Another topic of importance is the continuing necessity to increase the number of Panamanians moving into management positions. The Canal has marvelous training programs which are invaluable in meeting that objective. From the crafts to off Isthmus courses at U.S. Government facilities and universities, Panamanians are being prepared to handle the business. Training of people is one of the critical elements of our transition.

The PCC has taken steps to help in the transition. The Board of Directors, last April, created the Transition Affairs Committee which is made up of two U.S. and two Panamanian Directors. This Committee has the responsibility to monitor and supervise transition activities of the Commission. In addition, a special Office under the Administrator and Deputy Administrator has been created to coordinate transition matters within the Commission. The Panama Canal Commission will also have to provide assistance to the new Panamanian entity on a wide range of administrative matters—some of which I referred to earlier in these remarks. Full and open communications between the Panama Canal Commission and the Panamanian entity to be responsible for the Canal will be essential. This will require some mind set shifts for both Canal management and Panama.

There is one other area of concern which is applicable to both the United States and Panama. The preservation of Canal institutional memory and building on the trust developed over the last five years requires continuity in top management and the Board of Directors. The wholesale replacement of U.S. Board members would, in my opinion, seriously impact on the transition process as well as Canal operations.

Finally, from the viewpoint of the transition, I am constrained to comment on the role of the U.S. military in Canal affairs. It is a given that without the engineering capabilities of the U.S. Army Corps of Engineers,

in cooperation with our Nation's industrial ingenuity, the Canal would probably not have been completed. But, today is a new day. Almost one year ago, I became the first non-Department of Defense person to Chair the Board of the Panama Canal Commission—and the Canal is still operating. That step sent an important and positive message to Panama. The Panama Canal should not be dominated by the U.S. Department of Defense. The Canal must be viewed—again quoting from President Clinton's report to the Congress—"As an agency with a commercial mission. . . ." That is the right message and example for Panama as we convert to a government corporation and prepare to transfer the Canal.

## CONCLUSION

I have been privileged to serve on the Board of the Panama Canal for the last five years. It has been one of the most interesting experiences of my life. And I have to admit that I am enthralled by the Canal. In fact, much of America has had a love affair with the Panama Canal for some ninety years. Our ties are deep and emotional. After all, it was American perseverance, diplomacy, engineering, industrial might and medical know-how which completed the Canal after France's failure.

But the Canal is much more than an engineering triumph and complex maritime industrial business. When completed in 1914, the Panama Canal was the world's most expensive peace time project ever undertaken. It was completed ahead of schedule and under budget. With President Teddy Roosevelt at its side, the construction of the Canal also marked the entry of our nation onto the world stage. Further, it fulfilled the earlier visions which had inspired the explorations of Columbus, Balboa and Magellan. The Canal truly remains one of the World's wonders.

The maritime industry and the entire world economic community will be watching very carefully as the United States and Panama prepare to meet the Treaty commitments. Our customers want to continue doing business with the Canal. We want to continue doing business with them. Our employees and management are ready to uphold the traditions and world class service provided by the Canal over the last eighty years. It is now up to Panama and the United States to execute the transfer and permit the dedicated employees to operate the Canal without interference. As of this date, the "seamless transfer" is definitely on track—with only understandable caution lights flashing down the road.

## HONORING SUZIE PUSKAS

## HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. KILDEE. Mr. Speaker, I rise today to honor the recipient of the 1994 Golden Door Award, Mrs. Suzie Puskas. Mrs. Puskas will receive the award at the annual dinner meeting of the International Institute of Flint on Tuesday, October 11.

The International Institute of Flint presents this award annually to a foreign-born citizen who has substantially improved life in the Flint community. Suzie Puskas's service to newly arrived immigrants in Flint has spanned the

last seven decades. She is an unwavering pillar of the International Institute's commitment to serving those who come to the United States seeking a better life.

Born in Hungary on February 16, 1895, Suzie emigrated to the United States in 1914. She worked in New York as a live-in maid during her first years in the United States. She was all alone in this country and corresponded with Andrew Puskas during World War I. Andrew was a U.S. soldier serving overseas. The couple married after the war and moved to Flint in 1919. They opened a grocery store in the St. John Street community serving the new immigrants. In 1923 Suzie met Beatrice Baker, the Institute's first executive secretary. Mrs. Baker asked Suzie to become a volunteer board member with the Institute. It was the beginning of a relationship that has lasted through the years.

Suzie Puskas has served where she was needed most. In addition to serving on the International Institute's board, she counseled new arrivals, taught English, located jobs, provided shelter and basic life necessities. She translated letters from soldiers to their families during World War II. She assisted war brides writing to their husbands. She worked as a volunteer for the American Red Cross during this time. During the influx of refugees from Hungary in the 1950's, Suzie coordinated efforts to settle them in the community. She is known affectionately by the nickname of Aunt Suzie among those she aided.

The same strength of spirit that motivated this lifetime of caring for others also inspired Suzie as she raised two children, Edward and Susan, and has witnessed the birth of her nine grandchildren. Her husband died in 1968.

Mr. Speaker, it is with great honor that I ask the U.S. Congress to rise with me today to applaud a truly great American, Suzie Puskas. Her humility and selfless devotion to service is an inspiration to all.

LEGISLATION TO RECTIFY PROBLEMS IN THE SECTION 8  
PROJECT-BASED PROGRAM

## HON. COLLIN C. PETERSON

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. PETERSON of Minnesota. Mr. Speaker, today I am introducing legislation to rectify widespread problems in the Section 8 Project-Based Assistance Program. This Section 8 Project-Based Program is separate from the more widely known Section 8 Voucher Program in that the subsidy attaches to the apartment rather than to the tenant. Tenants do not have the choice to move to another apartment building because their rental subsidy cannot be used elsewhere.

The Employment, Housing and Aviation Subcommittee which I Chair has been investigating this program. We held a hearing on July 26, 1994 and will have a second hearing next week on October 6. The results from the first hearing were startling. The Department of Housing and Urban Development [HUD], the agency that administers this program, could not even identify for the subcommittee which

projects were troubled either financially or physically.

The HUD Inspector General reported that, to date, HUD has provided over \$131 billion in assistance to over 20,000 projects. More than 30 percent of these projects are troubled. Many are in deplorable shape: families are living with rat infestation; leaking toilets, sinks and roofs; no heat or smoke detectors; and holes in walls and ceilings.

HUD has not done a complete assessment of its inventory of troubled projects, which this bill would require. This assessment would include a financial and cost-benefit analysis of each troubled property to determine appropriate remedial action. It would also examine the social impact these properties have on tenants, owners, and communities.

In addition, this bill would require HUD to identify its troubled properties, collect and analyze the financial information for each project, and weigh its options for remedial action. HUD would then choose the most cost-effective action to take, while considering its affect on tenants, owners, and the community. Without a systematic method of determining what actions it should take on troubled projects, HUD could be wasting millions of dollars on projects that should not receive further assistance.

One solution, included in the bill, would permit HUD to recapture section 8 project-based funds for reuse as vouchers or certificates. This would allow tenants who live in substandard apartments to move to another building.

In addition to being in deplorable shape, many apartments have rents that are higher, in some cases double, the rent of comparable apartments in the same neighborhood that do not receive a subsidy. The General Accounting Office found a troubled section 8 property in Chicago where rent for a two-bedroom apartment was over \$800 and a comparable apartment in a nearby building was just over \$400. Some owners of section 8 assisted projects may be receiving undue profit at taxpayers' expense. The bill contains provisions that will control section 8 rent increases and make the rents comparable to unassisted rents in the area.

I hope that with this bill, requiring more efficient and cost-effective HUD oversight of section 8 properties, we can improve the management and financial and physical condition of these properties; properties that, by law, are intended to provide habitable rental units for thousands of low-income Americans.

A summary of the legislation follows:

#### CONGRESSIONAL FINDINGS

The Subcommittee on Employment, Housing, and Aviation held a hearing on July 26, 1994 to examine problems in the Section 8 Project-Based Assistance Program. The findings from the hearing follow:

Approximately 30% of the projects do not meet HUD's housing quality standards and are classified as "troubled". Of the total inventory of over 20,000 projects, about 10,000 are insured by HUD;

HUD cannot identify which projects in its inventory are troubled;

HUD is neither adequately inspecting projects nor ensuring that repairs are made;

HUD is not taking aggressive enforcement action against owners of troubled projects. According to the HUD Inspector General, aggressive enforcement action is the "except-

tion at HUD, not the rule." Although some of the sanctions available to HUD may hurt tenants, several of the administrative sanctions would not.

The inability of HUD to address the problems of troubled projects is due to a variety of factors, including ineffective management, inadequate data systems, staffing shortages, and a lack of program accountability.

HUD has not done a complete assessment of its inventory of troubled projects. This would include a financial and cost-benefit analysis of each troubled property to determine remedial action. It would also examine the social impact these properties have on tenants, owners and communities.

Many Section 8 apartments have rents that are excessive compared to comparable unassisted apartments in the same area. A 1993 HUD report analyzed 4,125 properties and concluded that 42% of those properties had assisted rents at, or exceeding, 140% of market rents in the area.

In 1989, Congress directed HUD to issue regulations for conducting rent comparability reviews, which examine the difference between HUD-assisted and unassisted rents charged for similar apartments in the same neighborhood. Although HUD issued a proposed rule in 1992, it has yet to issue a final rule—four and one-half years later. HUD placed a moratorium on conducting comparability reviews until the final rule is published. In the meantime, HUD is not doing comparability reviews, and owners are receiving automatic rent adjustments.

In order for HUD to take appropriate remedial actions, statutory changes may be required. For example, under current law, HUD cannot "recapture" Section 8 funds for reuse as vouchers or certificates.

**BILL SUMMARY—SECTION 8 PROJECT-BASED PROGRAM MANAGEMENT IMPROVEMENT ACT OF 1994, H.R. 5115**

The Section 8 Project-Based Management Improvement Act of 1994 would address many of the problems with Section 8 project-based properties. It would:

Require HUD to identify troubled Section 8 project-based projects within 30 days of the bill's enactment. HUD will establish two categories for projects—severely troubled and troubled.

Require HUD to have completed a financial and social impact analysis on all of its severely troubled and troubled projects. HUD will have 18 months after the bill's enactment to complete the analyses.

HUD is required to complete the analysis for all severely troubled projects in the first six months after the bill's enactment. HUD is required to complete the analysis for all troubled projects within eighteen months of the bill's enactment.

The financial and social impact analysis would assist HUD in determining remedial actions to be taken on projects. There are several actions that HUD can choose to take on each troubled project; such as providing funds to renovate the property; enforcing sanctions against the owner; providing Section 8 vouchers and certificates to tenants; and, in cases where a project is beyond repair, foreclosing on the building. HUD is required to collect and analyze the appropriate information on each project, and weigh the possible options. It should then choose the most cost-effective action to take, while considering its effect on tenants, owners, and the community.

In performing the financial and social impact analysis, HUD is required to include the following (1) background information (2) fi-

ancial information (such as the project's estimated rehabilitation costs, alternative financing mechanisms, and income and expenses) (3) comparison of options for remedial action. (4) an assessment of the social impact of each option, and (5) any other information as determined by the Secretary of HUD.

Require HUD to develop the guidelines it will use for determining remedial actions to take on each project. HUD must submit these guidelines to Congress within 30 days of the bill's enactment.

Permit HUD to "recapture" project-based Section 8 funds for reuse as vouchers or certificates (under current law, terminated Section 8 funds had to be returned to the Treasury and could not be used for vouchers or certificates).

Repeal a prohibition on lowering Section 8 rents that were in effect on or after April 15, 1987 for certain projects.

Require HUD to develop final regulations on conducting comparability reviews within 30 days of the bill's enactment.

Permit HUD to switch between applying the two methods of determining rent increases for Section 8 projects when refinancing (Annual Adjustment Factors and budget-based).

**SHIRLEY COLETTI HONORED FOR 25 YEARS OF SERVICE IN THE FIGHT AGAINST SUBSTANCE ABUSE**

**HON. C.W. BILL YOUNG**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 28, 1994*

Mr. YOUNG of Florida. Mr. Speaker, the board of directors of Operation PAR, one of our Nation's leading substance abuse treatment programs located in St. Petersburg, FL, which I have the privilege to represent, will honor its president, Shirley Coletti, Thursday for her lifetime of service to treat and prevent substance abuse throughout our Nation.

In a fitting tribute to her 25 years of service in this field, the board will name its recently completed Academy for Behavioral Change for Adolescents and Their Families the Shirley D. Coletti Academy. While providing treatment, support, and encouragement for substance abusers of all ages, Shirley has taken a special interest over the years in the impact substance abuse has had on young women and their children. In fact, many of the programs she has developed at Operation PAR have been nationally recognized for their effectiveness and have been replicated elsewhere.

Since its founding in 1969, Operation PAR has developed the largest and most comprehensive nonprofit system of drug and alcohol abuse prevention, intervention, research, education, and treatment services in the southeastern United States. Operation PAR provides services to more than 50,000 individuals a year.

Shirley Coletti was a leading force in the establishment of Operation PAR and has been a driving force throughout its quarter century of service to expand the number of people touched by the program. A nurse by training, Shirley is recognized as an international expert on drugs and substance abuse. She

served on the President's bipartisan Commission of Model State Drug Laws, was appointed by President Reagan to the U.S. Senate Caucus on International Narcotics Control, and has been a special representative of the State Department to many countries.

Her work has been nationally recognized by Presidents of the United States, the Congress, the Florida State Legislature, the Pinellas County Board of County Commissioners, and by her peers in the field. She has received the Outstanding Service Award from the Alcohol and Drug Problems Association of North America, the Special Award of Honor from the International Narcotics Enforcement Officers Association, the Administrator of the Year Award from the Florida Alcohol and Drug Abuse Associations, and the Distinguished Layman Award from the Florida Medical Association.

Mr. Speaker, I join the board of directors of Operation PAR and the people of Pinellas County, FL, as they honor Shirley Coletti for her lifetime of service to the victims of substance abuse. As a pioneer in the field of substance abuse treatment and prevention, she has been a champion of children, adults, and families in the battle against drug use and abuse. The true testament to her work are the thousands of lives she has touched over the past 25 years. With her support and encouragement, many have thrown off the scourge of drugs to reclaim their lives. Many more will be touched in the future by her work through the new Shirley D. Coletti Academy in St. Petersburg.

Shirley Coletti is a remarkable woman who has brought so much attention and energy to our Nation's ongoing battle against substance abuse, and I salute her for her lifetime of work.

TRIBUTE TO MS. CYNTHIA  
LANGLEY

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. NEAL of Massachusetts. Mr. Speaker, today I recognize a fine member of the community of Northampton, MA. Ms. Cynthia Langley, director of the Northampton Council on Aging for 19 years, has performed a number of valuable services for her community.

Ms. Langley, in her capacity as director of the Council on Aging, developed a number of creative programs with limited resources. Ms. Langley's commitment stretched beyond her duties as the director of the Council, including service on a number of human service organizations throughout Hampshire County. Her innovation and dedication have won the loyalty and respect of the people of Northampton, especially those most touched by her efforts—the elderly of that community.

Ms. Langley will now enter into employment with the American Association of Retired Persons, continuing her service to elderly and retired persons in this country. Her services will be missed by the people of Northampton. It is most difficult to replace a public servant with a distinguished record of service like Ms. Langley's.

For her tireless efforts on behalf of the elderly and her service to her community, I salute Ms. Cynthia Langley of Northampton, MA.

TRIBUTE TO REV. D. KEITH  
OWENS, PASTOR OF THE SALEM  
BAPTIST CHURCH

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. MENENDEZ. Mr. Speaker, I rise today before the House of Representatives to pay tribute to Rev. D. Keith Owens, Salem Baptist Church of Jersey City's new pastor.

The Salem Baptist Church was founded in 1870 and was born the Second Baptist Mission, when the congregation worshipped in the home of Joseph and Mary Bailey. In 1871, Rev. Hutchingson, the mission's second leader, secured the larger Carr's Hall for worship. In 1875 the mission was organized as the Salem Baptist Church and Rev. Hutchingson was ordained pastor. In 1877 Rev. Richard A. Motley accepted the pastorate and served until 1904. During this time a building was purchased and Joseph Bailey and Matthew Brown were ordained Salem's first deacons. From 1929 to 1934 the church was under the leadership of Rev. Furman W. Means. During these 14 years the Sunday school flourished, the auxiliaries expanded, and the church gained the national recognition of Baptists. The years to follow saw the church negotiate and pay for the present site of Salem at the corner of Clinton and Madison Avenues.

Rev. D. Keith Owens, born in Dillon, SC and raised in Newark, NJ, comes to Salem by way of Kaighn Avenue Baptist Church in Camden, NJ where he was senior pastor for 5 years. Emphasizing the importance of youth and education, Rev. Owens established a scholarship and endowment fund to help students in poor communities in Camden to afford college educations.

Living by the creeds of the greats who preceded him, including his parents, and other family members who were ministers, Rev. Owens' own achievements speak for themselves. At 32 years of age, he has written a weekly column on religion and current events for a local Camden area newspaper, taught speaking and English at a county college, directed public relations for the National Ministries, lectured throughout the United States and Africa, and made numerous television appearances in addition to pastoring. The list of accolades, memberships, and activities is endless.

I'm proud to have the opportunity to recognize Rev. D. Keith Owens and the Salem Baptist Church before the House, and I ask my colleagues to join me in thanking them for their service to the community and commending their achievements.

COMMUNITY REINVESTMENT  
IMPROVEMENT ACT OF 1994

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mrs. ROUKEMA. Mr. Speaker, today I am introducing legislation which would amend the Community Reinvestment Act of 1977 in order to make additional funds available for low- and moderate-income housing in certain distressed neighborhoods.

The Community Reinvestment Act was passed by the Congress in 1977 to curb the disinvestment in certain communities by insured depositories. The intention of the law was, in part, to ensure that lending institutions did not ignore the credit needs of certain communities in their home areas.

Over the years, however, we have seen the departure of most, if not all, lending institutions from certain distressed communities. These decisions were often good business decisions but they did leave very large gaps in the availability credit in those areas.

Under current law, if a local lender originates or participates in an affordable housing loan outside of its designated CRA lending area, the lender does not receive full CRA credit for that investment. My legislation would allow the appropriate bank regulator to grant full CRA credit for these types of activities.

Recently, in my State of New Jersey, the Federal Homes Loan Bank of New York, in cooperation with the New Jersey Savings League, established what has become known as the Regional Lender Consortia. This consortia, consisting of 86 members, acting through a lending organization known as the Thrift Institutions Community Investment Corporation (TICIC), is providing funding for low-income housing projects throughout the entire State.

At this time, the TICIC is processing loans for some \$150 million in low- and moderate-income housing projects.

Despite the initial interest in this program, most of the participating institutions cannot receive full CRA credit for their participation because of the current CRA law. Consequently, they are reluctant to commit additional funds beyond their initial contribution.

Passage of my legislation would assure institutions that no matter where they were located or what their defined geographic lending area was, they could receive full CRA credit for the amount of funds they contribute to the consortium's effort.

Passage of this legislation could pave the way for many millions of dollars in loans for low- and moderate-income housing in many more of our communities so desperate for development and so in need of credit.

Mr. Speaker, many criticize our private sector financial institutions for not making credit available to our communities most in need. Often, this criticism is just not justified. The New Jersey Regional consortia is just the kind of proof that our lending institutions want to help. To encourage their greater participation, I believe this simple change in the CRA law is all that is needed. I urge the passage of my legislation.

TRIBUTE TO RUTH I. HOWELL, D.O.

**HON. DAVID E. BONIOR**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 28, 1994*

Mr. BONIOR. Mr. Speaker, this evening, the Southeast Michigan Chapter of the March of Dimes Birth Defects Foundation will be hosting the 11th annual "Alexander Macomb Citizen of the Year" award dinner. The award, instituted in 1984, is named after my home county's namesake, Gen. Alexander Macomb, a hero of the War of 1812.

This year, the March of Dimes has chosen my long-time friend, Dr. Ruth Howell, as a recipient of the award. Being a physician is not simply a job for Ruth, it is an avocation. In addition to her responsibilities with her practice, she always finds time to devote energy to several service and professional organizations, including the Downriver Community Services where she cares for underserved obstetrical patients.

Ruth's devotion to her profession and the community are second to none. She has delivered and cared for thousands of children. In recent years she has begun to deliver a second generation. It is evident that her patients respect her at least as much as do her peers. Ruth was named Michigan General Practitioner of the Year in 1983 and was appointed as a member of the State of Michigan Board of Licensing and Registration. She is rightly recognized for her many contributions.

Through advocacy, education, and community service, the March of Dimes has established itself as an organization with an impeccable reputation. And, the southeast Michigan chapter rightly recognizes Dr. Howell for her excellent service and outstanding leadership. Receiving recognition from the March of Dimes is an exceptional honor and I urge my colleagues to join me saluting Dr. Ruth Howell, as a recipient of the "Alexander Macomb Citizen of the Year Award."

TRIBUTE TO DOCTOR PAUL VICINANZA, HEAD START

**HON. CURT WELDON**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 28, 1994*

Mr. WELDON. Mr. Speaker, this week marks an important milestone for Dr. Paul Vicinanza, a distinguished gentleman from Delaware County, PA. His family and friends will come together to wish him well as he enters retirement.

Dr. Paul Vicinanza is an individual who has been fully involved with the Delaware County Head Start Program for over 28 years. He began working with low-income families in 1965, at the beginning of his career. Then, under a grant from the Office of Economic Opportunity to the State, he became a regional Head Start training officer.

Operated by local nonprofit organizations in almost every county in the country, Head Start provides a great service of educating underprivileged and disabled children throughout our Nation.

Most recently, as Supervisory Head Start and Youth Program Specialist, Dr. Vicinanza broadened his functions to include managing staff and resources for both Head Start and Runaway and Homeless Youth Programs. As a Federal manager, he has been a leading advocate for children and families and for the development of effective family-based prevention and intervention strategies.

Dr. Paul Vicinanza is a rare individual who has served low-income families in the Delaware Valley region and helped thousands of children succeed. I commend him for his public service and civic involvement.

**SWEZEY'S: A CENTURY OF SERVICE**

**HON. GEORGE J. HOCHBRUECKNER**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 28, 1994*

Mr. HOCHBRUECKNER. Mr. Speaker, I rise today with great pleasure to pay tribute to Swezey's Department Stores on their 100th anniversary. Swezey's and the Swezey family will be honored by the Greater Patchogue (New York) Chamber of Commerce on October 1 for this remarkable achievement.

In today's commercial market, with businesses rapidly changing hands, Swezey's has been an economic rock of stability for Long Island. Swezey's success is particularly impressive and notable because it has continued to operate at the same Patchogue, Long Island location for its entire century of service. The historical significance of this 100 years of continuous operation is unquestionable—particularly because the fourth generation of the Swezey family continues to manage the business. Longtime residents of Long Island carry many fond memories of Swezey's which include the old clock, various store expansions, and the overall significant contribution the store has made to the vitality of the Patchogue business community.

Importantly, the Swezey family continues to be as committed to improving their community through volunteerism as they are to the success of their business. The Patchogue Chamber of Commerce is proud to have Bill Knapp, the secretary-treasurer of Swezey's, as its current president. Bill is the son of Priscilla Swezey-Teich. Priscilla's other son David is a vice president of the firm. Carroll Swezey, Jr. is the chairman of the board. His son John is president of the firm and daughter Karen is vice president.

Mr. Speaker, it is with great pleasure that I pay tribute to the Swezey family and organization on their centennial celebration. Swezey's historic presence serves as a fine example to other Long Island businesses on the importance of hard work, excellence in service, and commitment to the community. I wish Swezey's another 100 years of success on Long Island. The Swezey family should be extremely proud of their accomplishments.

OBSERVANCE OF 75TH ANNIVERSARY OF ST. JAMES CATHOLIC CHURCH

**HON. SANDER M. LEVIN**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 28, 1994*

Mr. LEVIN. Mr. Speaker, I wish to extend my congratulations to St. James Catholic Church in Ferndale, MI, upon their 75th anniversary. This weekend the church not only celebrates a birthday but also a remarkable record of community involvement.

At St. James Catholic Church the history is rich and the commitment is great. As congregants walk down memory lane this weekend, they will see how far the church has come since it was started by 50 families on October 1, 1919. Today the church has grown to over 1,000 people and touches the lives of countless others.

Families used to gather at the chicken coop at the Arthur Porter farm, which was located across Woodward Avenue from the church. The chicken coop served as home until 1920, when the church moved to a classroom at the old Central School to celebrate with Father James E. O'Brien.

In 1920, a chapel was built which later became the basement of St. James School. The school was completed in 1925, and until 1949 masses were held there. The cornerstone for the existing church was laid in 1949, and the first mass held in the church was Easter Sunday, April 1950.

Throughout the years, St. James Catholic Church has held war bond drives, directed cancer projects, collected money for victims of the 1967 Detroit riots, and most recently the church has sponsored a Habitat for Humanity house. I was privileged to attend the groundbreaking for this house and was once again reminded of the exceptional dedication which is abundant at St. James.

I applaud the many efforts of the St. James community on this significant anniversary and extend my warmest wishes to Father Robert Wurm and Dr. Robert Locey as they kick off this special celebration.

**SHOWDOWN IN CAIRO**

**HON. JOHN J. LaFALCE**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 28, 1994*

Mr. LaFALCE. Mr. Speaker, earlier this month the United Nations concluded its Conference on Population and Development in Cairo. After a long and difficult debate, conferees defeated U.S. attempts to establish abortion as a fundamental right of all women.

That is fortunate, for the original U.S. proposal would have run roughshod over the deeply held moral and religious beliefs of millions of people here and around the world.

Abortion cuts to the heart of the most fundamental right we cherish as Americans—the right to life. Statistics show that most Americans do not support unlimited access to abortion at any time for any reason. Why then

should we attempt to force this proabortion scheme on the rest of the world—particularly on countries that have a strong religious and cultural tradition of respect for life?

Abortion advocates were unable to provide a satisfactory answer, and were forced to moderate their extreme proabortion agenda. John Leo of U.S. News and World Report has written an insightful analysis of the Cairo Conference, and of the internal dynamics which produced the final consensus. I commend this excellent article to the attention of my colleagues.

[From U.S. News and World Report, Sept. 19, 1994]

#### PLAYING HARBALL AT CAIRO

(By John Leo)

The Cairo population conference will have to go down as one of the oddest adventures of the Clinton administration. Like many a Clinton saga, it follows the basic Lani Guinier story line; the staking out of a highly controversial position, an attempt to discredit opposition, followed by a quiet collapse and an explanation that "we never meant to do anything like that at all."

First the staking out. In March, a State Department "action cable" instructed all U.S. embassies to tell their host governments: "The United States believes that access to safe, legal and voluntary abortion is a fundamental right of all women. \* \* \*

The use of the term "fundamental right," as part of an aggressive U.S. lobbying effort, was a breathtaking leap. Since abortion is a fundamental right nowhere outside of North America, this amounted to an attempt to impose the ideological structure of Roe v. Wade on the rest of the world.

This was not an offer to fund abortion for poor nations that want it. It was an attempt to override laws and customs by establishing some sort of internationally recognized right that might be financially enforced in the future by the U.N. or international aid organizations.

Tim Wirth, under secretary of state and point man in the U.S. abortion lobbying effort, said that "a government which is violating basic human rights should not hide behind the defense of sovereignty." He meant that once international organizations accept abortion as a fundamental right, it can be cited to trump the laws, constitutions and sovereignty of any nation.

#### COSTLY RESISTANCE

Most Third World nations are heavily dependent on U.S. foreign aid, so the implication left hanging in the air is that resistance to the worldwide version of Roe v. Wade might prove costly. The March cable made it clear that the United States intended to play hardball, stating that "senior-level diplomatic interventions" with the World Bank and the International Monetary Fund would "advance U.S. population policy interest."

A spokesman for the U.S. Catholic bishops quoted a Guatemalan government minister as saying: "If I don't go along on abortion, there goes all my aid money." Miguel Prado, an adviser to Peru's delegation, told me much the same thing, complaining about the "fanatical agenda" and "big engine" of the U.S. abortion lobby at the conference.

Does the United States have the right to throw its weight around like this in the Third World? It depends on your taste for cultural imperialism and American arrogance.

Pushing other nations this hard was an extraordinary decision for Clinton to make. He

picked a hard-line, hard-edged delegation, with a very aggressive game plan based on domestic "pro-choice" lobbying: Moral or cultural qualms were dismissed. Abortion was positioned as a woman's issue or a health issue. Abortion was a legitimate tool of population control, a fundamental right. Laws protecting the fetus were "coercive." Abortion should be covered by national health plans.

Many of the controversial American positions in the draft program of action were set forth in a fog of protective euphemisms. "Reproductive health services," it turned out, included abortion, and the persistent linking of the words "family planning" and "reproductive health services" was a devious way of expressing an idea that the American delegates didn't dare say out loud: that abortion should be a legitimate family planning method.

Because the Vatican challenged these linguistic sinkholes and rallied 20 to 30 nations to resist, the Clinton administration backed down. (Surprise!) By week's end, abortion was gone from the document's family planning section. Al Gore was acknowledging national sovereignty and disavowing both the "fundamental right" language and abortion as population control.

The press was so preoccupied writing articles about the pope as a fuddy-duddy obstructionist that it barely noticed that the Vatican had successfully picked apart the American word games and had the Clintonites in full retreat. The Vatican has its own problems here, notably its refusal to accept birth control; but in this case it exerted clear moral leadership, coming to the aid of poor nations being bullied by one particular rich one.

This whole episode raises serious questions about the Clinton administration. This wasn't an attempt by a "pro-choice" team to consult and persuade, or to offer clinics to nations that want them. It was a highhanded attempt to "push the envelope," as one delegate put it, by going way beyond what other nations want, and what the American people are willing to have done in their name.

The administration may be in favor of abortion rights, but it might have shown a decent respect for the obvious moral uneasiness Americans feel on this issue. This is an administration representing 43 percent of the voters in a nation where half the people consider abortion immoral and a fairly large majority thinks the government shouldn't be involved in abortion at all. There is no mandate here for turning America into the world's largest and pushiest abortion lobbyist. This is an administration that needs to get its constituent pressure groups under control.

#### RETIREMENT OF SAM CHALFIN

##### HON. HERB KLEIN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. KLEIN. Mr. Speaker, I rise today to pay tribute to one of Paterson, NJ's most important and loyal employers, Mr. Sam Chalfin. It is with great pleasure that I join IPF International, Inc., along with Sam's many friends and family in congratulating him on the occasion of his retirement on Thursday, September 29, 1994.

Born on September 10, 1910, Mr. Chalfin's first job was as a shipping clerk in a clothing

factory in New York. Sam saved over \$500 and used the money to purchase half of his father's furniture business. They later moved to Paterson in 1935 as partners, and IPF soon became famous for exceptional furniture design and quality manufacture.

Mr. Chalfin has always prided his family's hands-on care and involvement with IPF. As Rod Allee of the Bergen Record recently documented, "Other old-time values still have meaning at the IPF plant, where furniture has evolved into an art form." Many of the 100 employees have been with the company for over 42 years and are addressed by their first names.

In addition to his work at IPF, Sam was a founder of the Fair Lawn Jewish Center and also an active member of the United Jewish Appeal in Fair Lawn.

Sam is 84 years old, and is retiring to Florida with his wife of over 53 years, Rhoda. I know that Paterson and IPF will miss his spirit and loyalty to his employees, yet I am told that the team of craftsmen, managers, and staff personnel will continue the IPF tradition of quality service and design.

#### A SPECIAL SALUTE TO JOHN BURRY, JR., RECIPIENT OF THE FRANKLIN ROOSEVELT SERVICE AWARD FOR EXCELLENCE

##### HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. STOKES. Mr. Speaker, I am proud to salute a very special individual who is being honored in my congressional district. On Saturday, October 1, 1994, the Northern Ohio Chapter of the March of Dimes will present its first Franklin Delano Roosevelt Service Award for Excellence. The inaugural recipient of the award is John Burry, Jr., chairman and chief executive officer of Blue Cross and Blue Shield of Ohio. I rise to share with my colleagues some pertinent information regarding this distinguished business leader who is being honored.

Jack Burry came to Cleveland in 1981 as president and chief administrative officer of Medical Mutual, Inc. [Blue Shield], having spent the previous 5 years with Blue Cross and Blue Shield of Michigan. In 1983, he was promoted to chief executive officer, and the following year he planned a merger with Blue Cross of Northern Ohio. In 1986, Jack Burry oversaw the merger with Blue Cross of Northwest Ohio, to form Blue Cross and Blue Shield of Ohio.

Under the strong leadership of Jack Burry, Blue Cross and Blue Shield in 1993 became the fastest growing Blue Cross plan in the country, with 120,000 new members. That same year, the company achieved a record surplus for the benefit of its policyholders of over \$291 million.

Mr. Speaker, I am proud that the March of Dimes has selected Jack Burry to receive its first Franklin Delano Roosevelt Service Award for Excellence. We are aware of the important role the March of Dimes plays through its campaign to prevent birth defects. The organization instituted Service Award for Excellence

to recognize outstanding volunteers who have demonstrated exemplary service to the March of Dimes and its mission.

For the past 6 years, Jack Burry has been the honorary chairman of the annual March of Dimes Celebrity Golf Classic, with Blue Cross and Blue Shield of Ohio serving as the event's largest corporate sponsor. The March of Dimes credits Jack and Blue Cross with turning the Celebrity Golf Classic into its largest and most successful golf fundraiser in the Nation, in terms of both dollars raised and number of participants. Over the past 5 years, the tournament has raised more than \$750,000 to support the fight against birth defects.

Mr. Speaker, I am pleased to note that Blue Cross and Blue Shield has also donated resources and services to assist in printing brochures for educational outreach programs. This allows thousands of pregnant women to understand the importance of early prenatal care and other information to benefit their child's health. Through his tireless efforts, Jack Burry has supported the March of Dimes in meeting its mission, helping mothers and babies to live healthier lives.

In addition to his work with the March of Dimes, Jack Burry is a member of various boards, including the Greater Cleveland Growth Association, Cleveland Tomorrow, and the Weatherhead School of Case Western Reserve University board of visitors.

Mr. Speaker, as he receives the Franklin Delano Roosevelt Service Award for Excellence, I join his colleagues and friends throughout the community in congratulating Jack Burry. Over the years, I have benefitted from a close friendship and outstanding working relationship with him. Jack is an individual whom I greatly admire and respect, and I am pleased to salute him upon this important occasion.

#### INTRODUCTION OF LEGISLATION TO PROVIDE INCENTIVES FOR EQUITY FINANCING OF CORPORATIONS

##### HON. MEL REYNOLDS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. REYNOLDS. Mr. Speaker, today I rise to introduce the Debt/Equity Financing Act of 1994. I urge my colleagues to cosponsor this important legislation.

The purpose of the legislation is to provide incentives for equity financing of most American corporations while discouraging the implied risks of heavily leveraged companies.

This legislation seeks to amend the tax code by reducing the deduction on debt interest expense by 20 percent while increasing the deduction on dividends paid to 50 percent of the amount paid. As written, the legislation is designed to be revenue neutral. In the long run, it should actually be a revenue raiser as it rewards prudent, productive corporate management.

Mr. Speaker, at present, interest expense is fully deductible under the tax code, while dividends are not. As a result, the tax code implicitly favors debt financing.

As we have all seen, the accumulation of significant debt by corporations has put the long-term economic health of such corporations in jeopardy. Some survive such fiscal high wire acts, while many others have not. Those that have fallen under the weight of their leveraged debt have cost thousands of dedicated American workers their jobs, and impacted communities. This legislation seeks to encourage debate in the Congress and in the country regarding the financing of American business.

My colleague from Illinois, Senator PAUL SIMON has introduced this legislation in the Senate. I urge my colleagues to examine the legislation, and lend their support.

I thank the Chair.

#### CONGRATULATIONS TO THE REPUBLIC OF CHINA ON ITS 83D BIRTHDAY

##### HON. DAN SCHAEFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. SCHAEFER. Mr. Speaker, the Republic of China on Taiwan will soon be celebrating its 83d birthday. It has much to celebrate. After 40 years of hard work, Taiwan is the world's 13th largest economic entity with one of the largest foreign reserves of any country. Such success deserves the admiration and envy of all nations. I believe that the Republic of China is more than qualified to be an active participant in global affairs. I am sure Taiwan will continue to prosper and assume a major international role in the post-cold war era.

In terms of U.S.-Taiwan relations, I am glad to see that in recent years we have a far better understanding of issues of mutual concern. Much of this improvement in relations between our two countries was due to the efforts made by Ambassador Mou-shih Ding, who has returned to Taipei to assume the post of director general of the ROC's National Security Council. I believe that Ambassador Ding's successor, Ambassador Benjamin Lu, will continue to work toward mutual understanding and a strengthening of ties between Taipei and Washington.

On behalf of my constituents, I wish President Lee Teng-hui and Premier Lien Chan the best of luck and a happy 83d to the Republic of China on Taiwan.

#### CONGRATULATING PHIL GARVER OF LIMA, OH

##### HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. OXLEY. Mr. Speaker, today, I congratulate 13-year-old Phil Garver, of Lima, OH, who recently received a National Medal of Merit from the National Office of the Boy Scouts of America. He is the son of Mike and Marcia Garver.

More important than the award, however, is what Phil did to receive this recognition. In

June of 1992, he rescued a 4-year-old girl who had accidentally fallen into a lake in Arlington, OH. She was fortunate to have a hero nearby.

Phil is a member of Boy Scout Troop 106 in Lima and received his award from the Black Swamp Area Boy Scout Council. Only 1 percent of all Boy Scouts qualify for this recognition.

My best wishes to Phil Garver and his family on the occasion of this important recognition.

#### SUPPORTS THE INITIATION OF A SUPER 301 INVESTIGATION AGAINST JAPAN

##### HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. FROST. Mr. Speaker, the President set September 30, 1994, as the deadline for initiating Super 301 investigations against Japan if progress is not made in the United States-Japan Framework negotiations to open the Japanese flat glass market. The deadline has been reached, and restrictive trade barriers remain in place to prevent United States access to Japanese markets. Given Japan's refusal to comply with U.S. demands to reform its exclusionary trade practices, I believe it is imperative that the administration initiate a section 301 investigation of Japan's flat glass market and take appropriate action to eliminate Japan's barriers.

For the U.S. flat glass industry, the stakes include retaining thousands of jobs here at home and sustaining its position of leadership in the international marketplace. The U.S. flat glass industry is responsible for creating over 100,000 high-quality American jobs. U.S. companies exported \$722 million in flat glass products worldwide in 1992.

While United States flat glass manufacturers compete successfully around the globe, the United States share of the Japanese market is less than 1 percent. The United States will be at a severe competitive disadvantage if it is unable to compete on equal terms in the Japanese market.

It is time to show Japan that the United States will not tolerate its unfair and anti-competitive trade practices. I urge the administration to initiate a Super 301 investigation of Japan's flat glass market.

#### THE PASSING OF DONA FELA

##### HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. DE LUGO. Mr. Speaker, one of the great figures of Puerto Rican history passed away last week. I was privileged to know her and I want to note her death and some of the accomplishments of her life of 97 years.

Felisa Rincon de Cautier, known respectfully as Dona Fela, is famous for her service as Mayor of San Juan from 1946 to 1969. In this

post she was, in the words of the San Juan Star, "at heart a social worker who never tired of meeting people, listening to their hopes and needs, and taking heed of their complaints."

No problem was ever too small to deal with. "The hand out and the personal touch were the hallmarks of her administration," as an obituary aptly put it. She regularly visited the worst slums and held weekly open houses for constituents.

But Dona Fela's service was not simply limited to individual problems. Her goals were social reform and improving the lives of people as a whole, particularly society's needy.

She spent decades fighting for child care programs, legal aid for the poor, senior citizens' centers, and Head Start. She also built health dispensaries, schools, and public housing with nurseries. And she sought fair treatment for the least-powerful municipal employees, such as the street cleaners.

She was also a leader with flair. For 3 years, she convinced Eastern Airlines to fly planeloads of snow to Puerto Rico so that island children would have a "White Christmas."

An early struggle was helping women in Puerto Rico obtain the right to vote. She later helped found the Popular Democratic Party, which is identified with the island's commonwealth government.

I knew her best as a leader of that party and the national Democratic Party. We met when we both served on the Democratic National Committee—a position that she only vacated with her passing.

It was as a national Democrat that she was, perhaps, best known to politicians in the States. She became a friend of the late, great Hubert Humphrey when they both served as mayors and she was fondly remembered by President Kennedy for her campaigning for him in New York.

She had the distinction of being the oldest delegate, at 95, to the 1992 Democratic National Convention in New York.

Mr. Speaker, I will not say that I noted the passing of Felisa Rincon de Gautier with regret because her life was so full and productive. I will say, though, that I was blessed in having known her.

#### THE TRUTH ABOUT REPUBLICAN RECKLESSNESS IS THE DEMOCRATS' BEST WEAPON

### HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. OWENS. Mr. Speaker, under the new administration this 103d Congress has accomplished a great deal to improve the lives of the American people. So much more would have been achieved if the Republicans had not adopted a posture of irresponsibility and recklessness. Beginning with the stimulus program and ending with health care the Republicans have used the filibuster to wreck the wheels of progress. Now, these mad elephants are boasting that this is a strategy that will win them control of the Congress. Only if Democrats are stupid enough to refuse to play the blame game will the Republicans continue to

confuse the American people. The only game in town is the blame game and the burden of blame rests squarely on the shoulders of the Republicans. Democrats must shove the truth about their outrageous performance squarely into the faces of the Republicans. Republicans are the murderers of the jobs that would have been created by the Clinton stimulus package. Republicans are the killers of health care. With the filibuster the Republicans have made a joke of the concept of a one-person, one-vote democracy. On the floor of the House Republicans have taken mean spiritedness to new depths in their cesspool. Democrats have a duty to fervently tell the American people the truth about the current Republican madness.

#### MAD ELEPHANTS

Gridlock guerrillas,  
Health care killers,  
Mad elephants are coming,  
GOP stampede running.  
Hide all grandmothers,  
Protect the old,  
Chiefs from Kansas,  
Are merciless and cold.  
Sound the survival alarm,  
Mad elephants marching.  
Do murderous and heavy harm.  
Health care killers,  
Gridlock guerrillas,  
Circus Master Ollie North,  
Assassin signed to train,  
Beasts blindly pushing,  
Great tons of public pain.  
Mad elephants are coming,  
Let the ghost of Paul Revere,  
Ride real hard and show no fear.  
The air is filled with lies,  
Americans arise,  
Before plain decency dies.  
Mad elephants are stomping,  
To kill all conscience,  
And harden hearts,  
They play their parts.  
They know their role,  
Kansas chiefs on elephants,  
Are merciless and cold.  
Gridlock guerrillas,  
Health care killers,  
The elephants stampede on,  
Patriotism and pity.  
Are now long gone.

#### TOMMY NUNEZ

### HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. PASTOR. Mr. Speaker, I would like to take this opportunity to congratulate Mr. Tommy Nunez, who was recently honored at the Hispanic Heritage Awards Dinner for excellence in sports.

An Arizona native, Mr. Nunez grew up in the Dupa Villa projects of East Central Phoenix. He joined the Marines and worked as a phone company switchboard repairman before he began his career as a referee for the National Basketball Association in 1973. As 1 of only 28 men who are officials with the National Basketball Association, he is the only Mexican-American to referee in the ranks of professional basketball.

Mr. Nunez' accomplishments alone serve as an inspiration to minority and underprivileged youth. Besides serving as a role model, he is

dedicated to improving the lives of others around him. When he is not working for the NBA, Mr. Nunez works for the Arizona Department of Economic Security Job Training Administration as a summer youth employment monitor and coordinates the Tommy Nunez Hispanic Basketball Classic. In addition, Mr. Nunez travels to local schools speaking on the importance of education and teaching students how to cope with peer pressure. He serves on the Governor's Council on Fitness, the Phoenix Youth Commission, and the Mayor's Advisory Committee for Substance Abuse and Community Education.

Mr. Speaker, Tommy Nunez is an exceptional person whom I am honored to know and proud to recognize. His high sense of integrity and outstanding leadership have made a profound impact on the young people of Arizona. His many achievements and his active participation in the community make him a role model that we can all admire and learn from. Again, I would like to take this opportunity to congratulate Mr. Nunez and especially to thank him for all he is doing to make a positive influence in the lives of the people of Arizona and throughout the Nation.

#### PAKISTAN CONTINUES MISSILE PURCHASES FROM CHINA AND ESCALATES TENSIONS IN SOUTH ASIA

### HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. HINCHEY. Mr. Speaker, I want to call to the attention of my colleagues an article that appeared in the September 7 edition of the Washington Times regarding a major arms deal between the Islamic Republic of Pakistan and the People's Republic of China. This article, written by Bill Gertz, notes that United States intelligence agencies in August found new evidence that Pakistan is going forward with a plan to purchase M-11 missiles from China. The M-11 is capable of delivering a nuclear warhead. This disclosure is very ominous because it comes less than 2 weeks after the former Pakistani Prime Minister, Nawaz Sharif, announced publicly that Pakistan has possessed nuclear weapons for some time. The United States Government has suspected Pakistan of possessing the bomb for many years. For this reason, in 1987 Congress passed and President Reagan signed into law the Pressler amendment, which prohibits the United States from providing Pakistan with foreign aid unless the President certifies that Pakistan does not have a nuclear device. Although both President Bush and President Clinton have been unable to make such a certification, Pakistan has told the United States and the world community it does not possess nuclear weapons. Now, as the article correctly points out, nuclear proliferation experts are worried that Pakistan will use these weapons against India in a future war over Kashmir. Pakistan has gone to war with India over Kashmir three times in the last 40 years.

Mr. Speaker, the issue of Pakistan buying M-11 missile technology from China is not

new. In 1992, Pakistan paid \$83 million to China for delivery of M-11 components and apparently the missiles themselves. The 1992 shipments caused the Clinton administration to impose sanctions on China last year for violating the provisions of the Missile Technology Control Regime [MTCR]. The MTCR is an international nonproliferation agreement which China has not signed but which Beijing assured the United States in 1992 it would abide by. Despite this sanction, China continues to sell and Pakistan continues to purchase M-11 missiles as part of a plan to build a nuclear weapon delivery system which can be deployed in South Asia.

Mr. Speaker, I urge my colleagues to read the Times article. The article clearly shows that Pakistan's nuclear ambitions are a source of grave concern for the United States and every nation which is opposed to the growth of nuclear weaponry and the dangers it creates. The article also is ample evidence that any attempt by our Government to fashion a nuclear proliferation policy in the South Asian region that does not include China is destined to fail.

Mr. Speaker, I ask unanimous consent to have the Times article placed in the RECORD at this point.

[From the Washington Times, Sept. 7, 1994]

**PAKISTAN-CHINA DEAL FOR MISSILES EXPOSED: NUCLEAR AMBITIONS SPUR UNITED STATES CONCERN**

(By Bill Gertz)

U.S. intelligence agencies last month uncovered fresh evidence that Pakistan was moving ahead with a deal to buy M-11 missiles from China, and this month Chinese missile technicians are expected to arrive in Pakistan to help train forces in their use, Pentagon and intelligence officials say.

The missile transfer, the subject of U.S. sanctions against China last year, has fueled new concerns among proliferation experts in government that Pakistan will use the missiles to deliver nuclear weapons.

Adding to the concern was the announcement two weeks ago by Pakistan's former prime minister, Nawaz Sharif, that Pakistan possesses a nuclear bomb. The statement confirmed long-held suspicions about Islamabad's nuclear program.

According to U.S. officials, Pakistan on Aug. 22 agreed to pay China a \$15 million installment on its 1988 contract with the China Precision Machinery Import & Export Corp., a government-owned missile producer, for an unspecified number of M-11 missiles, launchers and support equipment.

The last payment of \$83 million took place in late 1992 and coincided with the delivery of M-11 components, and possibly missiles themselves, from China to Pakistan.

The M-11 is a ballistic missile with an estimated range of 186 miles, a factor that restricts sales of the missile under the Missile Technology Control Regime (MTCR). The MTCR is an agreement among 25 nations to limit the transfer of missile technology.

A solid-fuel valiant of the Soviet Soud, the missile is capable of carrying nuclear and high-explosive payloads, U.S. officials have said.

The 1992 shipment from China led the Clinton administration to impose sanctions on Beijing in August 1993 for transferring equipment that violates the MTCR. U.S. law requires the imposition of sanctions for violations of the agreement, which limit transfers of missiles with a range of 186 miles and payload capacities of 1,100 pounds.

Beijing officials had assured Secretary of State James A. Baker III in 1992 that China would abide by the MTCR.

The sanctions were imposed against the China Precision Machinery Import & Export Corp. which manufactures and exports M-11s and similar missiles.

U.S. officials said there is strong evidence M-11s were shipped as part of the cargo in November 1992, but spy satellites have been unable to confirm their presence in Pakistan.

A team of Chinese missile technicians is expected in Sargodha, Pakistan, within the next two weeks to train the Pakistan military in using the M-11, according to officials who spoke on the condition of anonymity.

A separate team of Chinese technicians will go to Pakistan to unpack and assemble the M-11s later this year after the Sargodha missile facility is completed, the officials said.

Pakistan repeatedly has delayed the arrival of the assembly team because of concerns the missiles will be detected by spy satellites, the officials said.

Some intelligence reports indicate M-11s already are being stored in Pakistan at Sargodha, but operational missiles have not been seen.

Spy satellite photographs taken this spring showed canisters at the facility identical to those spotted at the M-11 production facility in China.

Intelligence analysts believed the canisters photographed at Sargodha were mock-ups used as part of a training exercise, although Pentagon officials believe the actual missiles are in Pakistan.

The latest action on the Pakistan-China missile transfer, outlined in intelligence reports to senior U.S. officials last week could unravel administration efforts to develop closer ties with Beijing.

Defense Secretary William Perry is expected to raise the issue of the M-11 transfers, as well as a planned Chinese underground nuclear test expected next month, in talks with Chinese officials when he visits Beijing next month.

Spokesmen for the Chinese and Pakistani embassies could not be reached for comment. Both governments have denied that M-11s or components have been or will be transferred.

Pakistan is developing a family of missiles known as the Hatf. The Hatf-1 has a range of 50 miles, and the Hatf-2 has a range of about 186 miles. A 372-mile range version, known as the Hatf-3, also is being developed.

Pentagon sources said the M-11s will either replace the Hatf-2s or serve as a temporary system until the Hatf-2 is fully developed and deployed.

"Selling out for money has bought the Clinton administration nothing but contempt from Chinese arms dealers," said a U.S. government specialist on China, referring to a recent trip to China by Commerce Secretary Ron Brown.

Mr. Brown announced in China that the administration is more concerned about promoting U.S. business than pressuring Beijing to improve its human rights record or halting the proliferation of Chinese weapons of mass destruction and missile-delivery systems.

A State Department official said the actual delivery of M-11s by China, which has not been confirmed by U.S. intelligence, automatically would prompt tighter sanctions against Beijing than the current restrictions imposed last year. "This would be extremely serious," he said.

The State Department official said the missile transfers would affect U.S. Chinese

relations but that the administration is trying to separate out concerns about weapons proliferation from its overall strategic relationship with China.

"There're going to be lots of problems with China," the official said. "But it's too complex a relationship to have every issue linked."

The official said the Defense Intelligence Agency's view of China's proliferation activities has been "pretty aggressive and verges on hysterical."

A DIA report to the Senate in May stated that China is "still actively supporting proliferation of weapons of mass destruction" with the approval of senior Chinese officials.

Undersecretary of State Lynn Davis told reporters at the time sanctions were first imposed that the administration did not have evidence M-11s were in Pakistan, but that there was "conclusive evidence they're received from China material relating to an M-11 missile."

Reports of the M-11 deal coincided with the visit by a four-member team of MTCR officials to Pakistan and India last week.

Robert Einhorn, a senior official with the State Department's bureau of political-military affairs, took part in the visit, which a spokesman call "an educational visit" aimed at informing the Pakistanis about the missile agreement.

**U.S. SCIENCE POLICY**

**HON. LEE H. HAMILTON**

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report for Wednesday, September 28, 1994 into the CONGRESSIONAL RECORD:

**U.S. SCIENCE POLICY**

Most of us probably do not realize how important science is. Without scientific progress the national health would deteriorate, we could not hope for improvement in our standard of living or increased number of jobs, and we could not have maintained our liberties against our adversaries. We have many social and economic problems besetting the United States. A vigorous science program can generate solutions to many of these problems.

**ADMINISTRATION POLICY**

Last month President Clinton issued a national science policy statement which underscores this nation's commitment to maintaining world leadership in science, math and engineering. The statement, the first in over 15 years, sets five national goals for U.S. science policy: (1) maintaining our leadership in the sciences; (2) enhancing connections between science research and national goals; (3) stimulating partnerships that promote investment in science and engineering; (4) producing the finest scientists and engineers for the twenty-first century; and (5) raising scientific and technological literacy of all Americans.

**FEDERAL FUNDING**

Research is the building block for scientific discovery and technological innovation. The White House report recognizes the need to sustain strong funding levels for basic and applied research. The federal government provides about two-thirds of U.S. investment in basic research—research involved with increasing general scientific

knowledge. In contrast, the private sector provides most of the investment in applied research—research involved with finding commercial applications for scientific breakthroughs.

An important concern is that overall U.S. investment in basic and applied research has not kept pace with our principal economic competitors, Germany and Japan. Total U.S. support of non-defense research and development (R&D)—the key source for technological innovations—is about 1.9% of our Gross Domestic Product (GDP), while in Germany it is 2.5% of GDP and in Japan 3% of GDP. Our overall level of investment rises to 2.6% of GDP if defense-related R&D is included.

The report's long-term goal is to achieve a level of 3% of GDP investment in total civilian and defense R&D, with more defense dollars shifted to research into technologies with both civilian and military applications. This 3% of GDP would come from both government and the private sector.

#### SETTING PRIORITIES

The report acknowledges the importance of setting clear priorities for national science spending in the current budget climate and linking priorities to agreed-upon national goals. The recent deficit-reduction package places a hard freeze on domestic spending over the next several years. Consequently, increased federal investment in research must involve shifting of resources from other domestic programs as well as allocating limited science dollars in a more productive manner.

The report highlights two important science priorities: science infrastructure and science education. First, it underscores the need to modernize many of our country's academic research facilities, and commits the federal government to work with state governments and the private sector to renovate and upgrade these facilities. Second, it stresses the importance of educating a new generation of American scientists and making young Americans scientifically literate. The report concludes that scientific and technological literacy and critical to the economic competitiveness of our future workforce.

#### COOPERATIVE FEDERAL ROLE

The report seeks to promote science investment by increasing private sector and foreign involvement in U.S. science efforts. The private sector plays a critical role in developing new technologies that will have commercial applications in the marketplace. Government and the private sector can also work together to improve the science and math curriculum in our schools, expand research facilities in our universities, and boost investment in high tech industry.

Another way to meet the high cost of science research, particularly "big science" research on high energy physics, space exploration nuclear fusion and the like, is by pursuing joint funding efforts with other countries. The end of the Cold War provides us with new opportunities for cooperation. The U.S., of course, should have concerns about giving our international competitors unrestrained access to our most advanced technologies and relinquishing control over important scientific efforts. Even so, joint efforts, where appropriate, can offer substantial benefits to this country and its long-term economic strength.

#### FEDERAL LABS

The report calls for an interagency federal review of the role of federal labs in supporting national goals and the effectiveness of

their contributions to scientific research. The nation's 700-plus federal laboratories are coming under closer scrutiny since the end of the Cold War. Some critics suggest they should be cut back and many of their scientists—over 70,000 scientists and engineers work in federal labs—transferred to private research facilities.

A more effective way to maximize their utility in the post-Cold War world may be through the promotion of commercial partnerships with the private sector. The vast network of federal laboratories continues to perform vital work for our national security, particularly in defense-related areas that cannot be undertaken by the private sector. A key challenge is finding commercial applications for defense-related technologies. The Idaho National Engineering Laboratory, for example, is working with farmers to use ultrasound technology to detect fibers that can contaminate wool and cotton. Federal labs can provide a model for a new cooperative relationship between government and the private sector in promoting and applying scientific research.

#### CONCLUSION:

I strongly believe that we must invest in science, both by allocating more dollars from the public and private sectors, and by making certain that the dollars are spent more wisely. I think there is widespread agreement in Washington that we are a nation under investing in scientific research and development. We must promote our sciences because they are necessary for the national defense; they make our industries more competitive; and they satisfy human needs.

### ENGLISH-ONLY RULER: UNFAIR DISCRIMINATION

#### HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. UNDERWOOD. Mr. Speaker, in the United States, we pride ourselves on our freedom. We have the freedom to speak our minds and the freedom to pray as we wish. We have the freedom to assemble and the freedom to vote. And we have the freedom from unfair discrimination. But to this day we continue to define the contours of those freedoms in the country's courts and legislatures.

That is why I must bring to my colleagues' attention a development that threatens to take away many of our citizens' capacity to communicate. Bilingual Americans are being prevented from speaking in a language other than English while on the job, even if doing so will have no effect on their performance. Today, I am introducing a bill to correct this unfortunate situation.

Last year, the Ninth Circuit Court of Appeals said, in *Garcia versus Spun Steak*, that businesses can require their employees to speak only English on the job. In that case, bilingual Latino workers at a meat processing plant spoke to each other in Spanish. A Chinese-American employee and an African-American employee suspected that their Latino coworkers were making derogatory comments in Spanish. The employer responded by requiring all workers to speak English at all times while on the job. The Latino workers sued the

employer, claiming that their rights under title VII of the Civil Rights Act of 1964 had been violated.

The Spun Steak court held that title VII had not been violated by the employer's English-only rule. It pointed to guidelines issued by the Equal Employment Opportunity Commission [EEOC] in 1980. Those guidelines stated that English-only rules place a burden on employees and are only allowed if required by a business necessity. Business necessity would mean, for example, that a telephone operator should be able to speak English while on the job, but a painter's job does not have the same language requirements. The court reasoned that the EEOC guidelines were not supported by any statutory or regulatory authority and therefore should not bear upon the court's decision. The court therefore rejected the EEOC's guidelines.

On appeal, the Supreme Court denied certiorari, which meant that throughout the ninth circuit, where one-third of the Nation's bilingual citizens live, businesses can establish English-only rules. But other circuits throughout the Nation have different interpretations of title VII, or have not yet addressed this issue.

I believe Congress must clarify our stance on English-only rules once and for all. I believe we must overturn *Spun Steak* and establish that, for the purposes of title VII, English-only rules are unfairly discriminatory and should only be allowed when justified by a legitimate business purpose. In other words, Congress must give the EEOC statutory authority to establish regulations on this matter, such as the guidelines cited in *Spun Steak*.

We are faced with a significant problem. In 1993, 14,394 complaints were filed with the EEOC for linguistic discrimination. This was a 30 percent increase from 1989. As the number of bilingual Americans increases, we cannot afford to ignore this development. There is no proof that English-only rules increase business productivity. However, many scholars have concluded that such rules create an atmosphere of isolation and intimidation.

Title VII of the Civil Rights Act forbids employment discrimination based on race, color, religion, sex, or national origin. English-only rules fall into the category of discrimination based on national origin. It is well established that, under title VII, discriminatory practices are those that cause a disparate impact on members of a group and cannot be justified by business necessity. The United States Solicitor General, in an *amicus curiae* brief to the Supreme Court, stated:

English-only rules \* \* \* disproportionately burden national origin minorities because they preclude many members of national origin minority groups from speaking the language in which they are best able to communicate, while rarely, if ever, having that effect on non-minority employees.

Thus, English-only rules are discriminatory because they put a burden on certain minority employees while leaving other employees unscathed. This is unfair. Congress can, and should, act to prevent it.

My bill offers a simple solution to this problem. It simply states that, under title VII, an English-only rule creates an adverse and disparate effect on employees. By amending the law this way, Congress gives the EEOC authority to conclude, as it did way back in 1980,

that English-only rules are inherently discriminatory and should only be allowed if required for business purposes.

Mr. Speaker, it is late in the session and I have no illusions about this bill passing in the 103d Congress. I am not introducing it today with the intent of passage before October 7. Instead, I am introducing it in preparation for next Congress, when I will bring this measure forward again and, with my colleagues on the congressional Hispanic caucus and the Asian/Pacific Islander caucus, push for Congress to address this critical issue.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, September 29, 1994, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 30

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on the nominations of Bruce A. Morrison, of Connecticut, and J. Timothy O'Neill, of Virginia, each to

be a Director of the Federal Housing Finance Board, Department of Housing and Urban Development, and James Clifford Hudson, of Oklahoma, to be a Director of the Securities Investor Protection Corporation.

SD-538

OCTOBER 3

2:00 p.m.
Indian Affairs
To hold hearings on the nomination of Peter J. Osetek, of Arizona, to be Commissioner on Navajo and Hopi Relocation, Office of Navajo and Hopi Indian Relocation.

SR-485

3:00 p.m.
Governmental Affairs
To hold hearings on the nomination of Martha F. Riche, of Maryland, to be Director of the Census, Department of Commerce.

SD-342

OCTOBER 4

10:00 a.m.
Foreign Relations
To hold hearings to examine the status report on United States assistance to the newly Independent States.

SD-419

Governmental Affairs
Business meeting, to consider pending calendar business.

SD-342

Labor and Human Resources
To hold hearings on the Department of Labor's Job Corp. program for at-risk youth.

SD-430

OCTOBER 5

10:00 a.m.
Budget
To hold hearings on proposals to provide legislative line-item veto authority to the President, including expedited and enhanced rescission proposals, including S. 9, S. 224, S. 437, S. 690, S. 740, S. 2458, H.R. 1578, and H.R. 4600.

SD-608

1:00 p.m.
Finance
Energy and Agricultural Taxation Subcommittee
To hold hearings on miscellaneous farm tax issues.

SD-406

2:00 p.m.
Judiciary
Constitution Subcommittee
To hold hearings to examine the constitutional right to international travel.

SD-628

OCTOBER 6

9:30 a.m.
Governmental Affairs
To hold oversight hearings on the General Accounting Office.

SD-342

10:00 a.m.
Judiciary
To hold hearings to examine how the Violent Crime Control and Law Enforcement Act will fight drugs.

SD-226

OCTOBER 13

9:30 a.m.
Governmental Affairs
Oversight of Government Management Subcommittee
To hold oversight hearings on the Navy's mismanagement of the sealift tanker contract.

SD-342

CANCELLATIONS

SEPTEMBER 30

9:30 a.m.
Governmental Affairs
Regulation and Government Information Subcommittee
To hold hearings on S. 2136, to prohibit sponsorship of television violence by agencies of the Federal Government.

SD-342